

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS, )  
Plaintiff, )  
VS. ) CASE NO. 1:12-CV-00128  
ERIC H. HOLDER, JR., in his ) (RMC-DST-RLW)  
official capacity as Attorney ) Three-Judge Court  
General of the United States,)  
Defendant.  
ERIC KENNIE, et al.,  
Defendant-Intervenors,  
TEXAS STATE CONFERENCE OF  
NAACP BRANCHES, et al.,  
Defendant-Intervenors,  
TEXAS LEAGUE OF YOUNG VOTERS  
EDUCATION FUND, et al.,  
Defendant-Intervenors,  
TEXAS LEGISLATIVE BLACK  
CAUCUS, et al.,  
Defendant-Intervenors,  
VICTORIA RODRIGUEZ, et al.,  
Defendant-Intervenors.

-----  
ORAL DEPOSITION OF  
MEREDYTH FOWLER  
JUNE 8, 2012-----  
ORAL DEPOSITION of MEREDYTH FOWLER, produced as a

3

## A P P E A R A N C E S

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2

1 witness at the instance of the Defendant, and duly  
2 sworn, was taken in the above-styled and numbered cause  
3 on the 8th day of June, 2012, from 9:31 a.m. to 4:35  
4 p.m., before Jean Thomas Fraunhofer, CSR in and for the  
5 State of Texas, reported by machine shorthand, at the  
6 Law Offices of DECHERT LLP, 300 West 6th Street, Suite  
7 210, Austin, Texas 78701, pursuant to the Federal Rules  
8 of Civil Procedure and the provisions stated on the  
9 record or attached hereto.

4

## I N D E X

1 WITNESS	2	PAGE
MEREDYTH FOWLER		
Examination by Ms. Berkower	6	
Examination by Ms. Stelcen	199	
Examination by Mr. Sweeten	205	

3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
E X H I B I T S																							
NO.	DESCRIPTION	PAGE																					
Exhibit US-5	SB14 (previously marked)	165																					
Exhibit US-6	OCGA §21-2-417 (previously marked)	130																					
Exhibit US-29	SB362 (previously marked)	75																					
Exhibit US-60	PL109-2005 (Indiana) (previously marked)	134																					
Exhibit US-431	Texas Legislature Online Bills Out of Committee (previously marked)	48																					
Exhibit US-640	Notice of Deposition	14																					
Exhibit US-641	2/9/11 Press Release	44																					
Exhibit US-642	4/28/09 Clear Lake GOP Press Release	96																					
Exhibit US-643	January 2011 Interim Report	109																					
Exhibit US-644	SB14	117																					
Exhibit US-645	3/1/11 Witness List	145																					
Exhibit US-646	3/1/11 Select Committee Hearing transcript (Vol. 2 of 2)	159																					
Exhibit US-647	9/22/11 Email to John Sepehri from Meredyth Fowler	182																					
Exhibit US-648	6/14/11 Email to Andrew Blifford, et al from Ashley Kaden	185																					
Exhibit US-649	9/12/11 Email chain between Ashley Kaden and Andrew Blifford	187																					
Exhibit US-650	March 2011 Email chain	191																					
Exhibit RODRIGUEZ-36	3/23/11 House Floor Debate Transcript (TX00211181-281) (previously marked)	170																					



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5	7
<p>1 MEREDYTH FOWLER,  2 having been first duly sworn, testified as follows:  3 MS. BERKOWER: Okay. Good morning. This  4 is the case of the State of Texas versus Eric Holder,  5 Case No. 12-CV-128 in the US District Court for the  6 District of Columbia. Today's June 8th, 2012 and this  7 is the deposition of Meredith Fowler. My name is Risa  8 Berkower, and I represent the Attorney General, Eric  9 Holder, in this matter. Do you want appearances of  10 counsel?</p> <p>11 THE REPORTER: Yes.</p> <p>12 MR. FREEMAN: My name is Dan Freeman, and  13 I also represent Attorney General, Eric H. Holder.</p> <p>14 MS. RUDD: I'm Amy Rudd. I represent the  15 intervenors, the NAACP and Mexican Legislative Caucus.</p> <p>16 MS. STELCEN: Lindsey Stelcen also on  17 behalf of the intervenors, NAACP and the Mexican  18 American Legislative Caucus.</p> <p>19 MR. PHILLIPS: Tom Phillips. I represent  20 Speaker Straus.</p> <p>21 MR. SWEETEN: I'm Patrick Sweeten with the  22 Texas Attorney General's Office, and I'm representing  23 the State of Texas and the witness, Meredith Fowler.</p> <p>24 MS. BERKOWER: Do you need to step out a  25 second based on --</p>	<p>1 moving things along. From time to time your attorney  2 may make an objection. He's making these objections for  3 the record. Unless he instructs you not to answer, you  4 can go ahead and answer. If he counsels you to only  5 answer to the extent that information is not privileged,  6 please clarify for the record whether you are not  7 answering or not answering completely based on his  8 instruction so that we have a clear record. Does that  9 make sense?</p> <p>10 A. Yes.</p> <p>11 Q. Do you understand these instructions?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have any questions about any of these  14 instructions?</p> <p>15 A. No.</p> <p>16 Q. Are you on any medication today that would  17 affect your ability to testify?</p> <p>18 A. No.</p> <p>19 Q. Is there any reason why you cannot testify  20 truthfully and accurately today?</p> <p>21 A. No.</p> <p>22 Q. If I refer to you unless I specify otherwise,  23 I'm asking you a question about you in your capacity as  24 a staff member for Representative Joe Straus; do you  25 understand?</p>
6	8
<p>1 MR. SWEETEN: No, we'll get started.</p> <p>2 EXAMINATION</p> <p>3 BY MS. BERKOWER</p> <p>4 Q. So Ms. Fowler, are you represented here by  5 counsel today?</p> <p>6 A. Yes.</p> <p>7 Q. Who is that?</p> <p>8 A. Patrick.</p> <p>9 Q. Mr. Sweeten?</p> <p>10 A. Yes.</p> <p>11 Q. And when did that representation begin?</p> <p>12 A. Five minutes ago.</p> <p>13 Q. So you've been placed under oath. It's  14 important to testify truthfully, accurately and  15 completely as a result. The court reporter will prepare  16 a transcript of everything that's said today. So I  17 would ask that you respond to my questions verbally. No  18 head shaking or nodding so that your answer can be  19 recorded, and please wait for me to finish my question  20 before you answer, and I will try to do the same for  21 you. I'll try to ask you clear questions, so if you  22 don't understand my question, let me know.</p> <p>23 If you wish to stop and take a break, tell  24 me and I'll try to accommodate you, but we'll try to  25 keep our breaks relatively short in the interest of</p>	<p>1 A. Yes.</p> <p>2 Q. I may use the terms voter ID and photo ID  3 interchangeably during this deposition. I want you to  4 interpret the term broadly to mean a requirement that a  5 voter present a form of identification, whether it has a  6 photo or otherwise, when voting in person before being  7 permitted to vote by regular ballot. Does that make  8 sense?</p> <p>9 A. Yes.</p> <p>10 Q. When I refer to the term minority voters, I  11 mean voters who are non-white or non-anglo. Do you  12 understand these terms?</p> <p>13 A. Yes.</p> <p>14 Q. If you have any questions about what I mean  15 when I'm asking a question, please ask. So have you  16 ever been deposed before?</p> <p>17 A. No.</p> <p>18 MR. SWEETEN: When you say "you," you mean  19 on behalf of Speaker Straus? That's how you defined it,  20 so --</p> <p>21 MS. BERKOWER: Okay. Well, then I'll --</p> <p>22 MR. SWEETEN: Do you want to change that  23 instruction or --</p> <p>24 MS. BERKOWER: Yeah.</p> <p>25 MR. SWEETEN: -- or do you want to ask her</p>



<p style="text-align: center;">9</p> <p>1 about herself.</p> <p>2 Q. (BY MS. BERKOWER) Well, I'll ask about you.</p> <p>3 Have you ever been deposed before in your capacity as</p> <p>4 Speaker Straus's employee or outside of that?</p> <p>5 A. No.</p> <p>6 Q. And with the same definition of you, have you</p> <p>7 ever been a party in litigation?</p> <p>8 A. No.</p> <p>9 Q. With the same definition of you, have you ever</p> <p>10 been involved in a case where the State of Texas was the</p> <p>11 plaintiff or defendant?</p> <p>12 A. No.</p> <p>13 Q. What did you do to prepare for today's</p> <p>14 deposition?</p> <p>15 A. Spoke with this guy in the Attorney General's</p> <p>16 Office with Patrick and the Attorney General's Office.</p> <p>17 Q. Who else from the attorney general's office, if</p> <p>18 you remember?</p> <p>19 A. I think his first name is Reynolds.</p> <p>20 Q. Mr. Brissenden? When did you meet with them?</p> <p>21 A. This week.</p> <p>22 Q. Do you remember what day this week?</p> <p>23 A. I believe it was Wednesday.</p> <p>24 Q. How long did you meet with them?</p> <p>25 MR. SWEETEN: You mean in your capacity</p>	<p style="text-align: center;">11</p> <p>1 MR. SWEETEN: You can answer what you</p> <p>2 reviewed. That's fine.</p> <p>3 A. I think I just reviewed the deposition notice.</p> <p>4 That's all I can recall as far as documents.</p> <p>5 Q. Okay. Other than your attorneys, did you speak</p> <p>6 to anyone about your deposition here today?</p> <p>7 A. I told my parents I was being deposed and my</p> <p>8 office co-workers.</p> <p>9 Q. What was the nature of those conversations?</p> <p>10 A. Just telling them I was being deposed.</p> <p>11 Q. Did you get into the substance of what you were</p> <p>12 going to talk about?</p> <p>13 A. No.</p> <p>14 Q. More of a scheduling thing?</p> <p>15 A. Pretty much just telling them I'm going to be</p> <p>16 deposed. I don't know what they're going to ask me. I</p> <p>17 wonder how long it's going to take.</p> <p>18 Q. That's a good question.</p> <p>19 A. I'm kind of stuck.</p> <p>20 Q. Did you speak to any other legislature or staff</p> <p>21 members in the Texas legislature about your deposition</p> <p>22 today?</p> <p>23 A. I asked Bryan Hebert if he will be deposed and</p> <p>24 he said yes.</p> <p>25 Q. Did you discuss the content of his deposition</p>
<p style="text-align: center;">10</p> <p>1 with the speaker's office or do you mean you in terms of</p> <p>2 her? I don't really understand the question.</p> <p>3 MS. BERKOWER: Okay. Well, I guess then</p> <p>4 for these introductory questions, I will just ask you as</p> <p>5 a general matter without limiting her capacities as an</p> <p>6 employee for Speaker Straus and then when we get into</p> <p>7 the questions that relate more to her employment, I'll</p> <p>8 switch back to that definition?</p> <p>9 MR. SWEETEN: All right.</p> <p>10 Q. (BY MS. BERKOWER) So we were talking about your</p> <p>11 preparation for today's deposition, and you said met</p> <p>12 with Mr. Sweeten and Mr. Brissenden on Wednesday. Do</p> <p>13 you remember how long you met with them approximately?</p> <p>14 A. It was about two hours.</p> <p>15 Q. Who else was present, if anybody?</p> <p>16 A. Justice Phillips.</p> <p>17 Q. Okay. Mr. Phillips?</p> <p>18 A. Yes.</p> <p>19 Q. Did you review any documents in preparation for</p> <p>20 today's deposition?</p> <p>21 MR. SWEETEN: You can answer yes or no to</p> <p>22 that question.</p> <p>23 A. Yes.</p> <p>24 Q. Did you review they non-privileged documents in</p> <p>25 representation for today's deposition?</p>	<p style="text-align: center;">12</p> <p>1 when you talked to him?</p> <p>2 A. No.</p> <p>3 Q. When did you ask him that?</p> <p>4 A. Within the last month.</p> <p>5 Q. Was anyone else present when you talked to him?</p> <p>6 A. No. It was -- I just sent him a text.</p> <p>7 Q. Did you talk to any other legislatures or staff</p> <p>8 members about your deposition?</p> <p>9 A. Not that I can recall.</p> <p>10 Q. You said though you talked to people in your</p> <p>11 office.</p> <p>12 A. Yes. My co-workers, just with them, I was</p> <p>13 being deposed.</p> <p>14 Q. Did you speak to anyone else other than</p> <p>15 Mr. Hebert who has already been deposed in this case</p> <p>16 about your deposition here today?</p> <p>17 A. Other than my parents?</p> <p>18 Q. Well, anyone who had already been deposed in</p> <p>19 this case.</p> <p>20 A. Oh, no.</p> <p>21 Q. And is there anybody else you've spoken with</p> <p>22 about your deposition today that you haven't already</p> <p>23 mentioned?</p> <p>24 A. I told some co-workers. I told my best friend</p> <p>25 I was being deposed.</p>



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<p style="text-align: center;">13</p> <p>1 Q. Did you discuss the content of what you were 2 going to talk about today's with her -- 3 A. No. 4 Q. -- or him? 5 A. No. 6 Q. And did you talk about your deposition today 7 about Speaker Straus? 8 A. No. 9 Q. What office do you currently work in? 10 A. Speaker Straus's office. 11 Q. Is that the office here in office or are there 12 other offices as well? 13 A. It's the one in Austin. 14 Q. And what are the names of your co-workers here 15 at the office in Austin? 16 A. Jesse Ancira, Ashley Kaden Andrew Blifford, 17 Andrea Sheridan, John Schnautz, Zeke Reyna, Kevin 18 Robnett, Jennifer Deegan, Allison Winney, Kari Torres, 19 Carolyn Scott, Channing Burke. That's all I can think 20 of at the moment. 21 Q. Okay. If you think of anybody else, you can 22 just say. So did you bring any documents or notes with 23 you today? 24 A. I brought the deposition notice with me. 25 Q. Anything else?</p>	<p style="text-align: center;">15</p> <p>1 MR. SWEETEN: Okay. 2 A. Within the last two months. 3 Q. Where did you look for these documents? 4 A. I looked in my office, email, my office 5 documents, and my phone. 6 Q. Did you look for other electronic documents 7 other than your emails? 8 A. Can you clarify? 9 Q. Well, I know you said you searched for emails, 10 and were there other documents that you may have saved 11 on your network or your computer that were not emails 12 that you searched? 13 A. Yes. 14 Q. What -- Like generally can you describe your 15 search? 16 A. Sure. I looked in my computer files on my work 17 computer. 18 Q. Did you look at paper files as well? 19 A. Yes. 20 Q. Where were those paper files located? 21 A. In my office. 22 Q. And when you say your office, you are referring 23 to an office that you have inside Speaker Straus's Austin office? 24 A. Yes.</p>
<p style="text-align: center;">14</p> <p>1 A. No. 2 (Exhibit 640 marked.) 3 Q. So speaking of the notice of deposition, we 4 have what's going to be marked as Exhibit 640 for this 5 deposition. I actually don't have a copy for Justice 6 Phillips. Do you mind? 7 MR. PHILLIPS: I'll suffer through it. 8 MS. BERKOWER: I have four copies total. 9 MR. PHILLIPS: I've seen it. 10 Q. (BY MS. BERKOWER) Do you recognize this 11 document? 12 A. Yes. 13 Q. What is it? 14 A. The notice for deposition. 15 Q. Is it your notice of deposition? 16 A. It has my name on it. 17 Q. So it's a notice of deposition that we're going 18 to take your deposition; is that accurate? 19 A. Yes. 20 Q. Directing your attention to Attachment A of the 21 notice, did you undertake a search for these documents? 22 A. Yes. 23 Q. When did you do that? And I guess I should be 24 clear. Now I'm talking about her and her employment 25 with Speaker Straus.</p>	<p style="text-align: center;">16</p> <p>1 Q. You said Speaker Straus has more than one 2 office. Did you look for any documents in his office? 3 A. No. 4 Q. Why not? 5 A. I don't work in his other office. 6 Q. Okay. Did you also look on your home computer? 7 A. I did. 8 Q. Do you have any home office files that you 9 looked at as well? 10 A. I don't have any office files on my home 11 computer. 12 Q. And you said you looked on your phone. Is that 13 a work phone or a personal phone? 14 A. It's a personal phone. 15 Q. Do you also have a government issued phone? 16 A. I do not. 17 Q. Okay. Did you produce documents to your 18 attorneys -- 19 A. Yes. 20 Q. When did you do that? 21 A. Within the last two months. 22 Q. Did you discuss asserting privilege over any of 23 those documents without revealing the content of your 24 discussion? 25 A. Yes.</p>



17	19
1 Q. Do you remember when that was?	1 A. I do not recall deleting any.
2 A. This week.	2 Q. How often do you communicate with Speaker
3 Q. Who did you discuss that with?	3 Straus?
4 A. My attorneys.	4 A. Not very often.
5 Q. Mr. Sweeten and Mr. Brissenden?	5 Q. Would you say once a day, less than once a day?
6 A. Yes.	6 A. Less than once a day.
7 Q. And Judge Phillips, I guess?	7 Q. Once a week?
8 A. Yes.	8 A. No.
9 Q. How do you usually communicate with people in	9 Q. Is that in session or does it vary whether
10 your office?	you're in session or out of session?
11 A. Usually conversations face-to-face.	10 A. It does.
12 Q. Do you use email as well?	11 Q. So when you're in session, how often do you
13 A. Yes.	12 communicate with him?
14 Q. How often do you use email?	13 A. I would say a couple times a week.
15 A. Daily.	14 Q. And, generally, what's the nature of those
16 Q. How often per day?	15 conversations without revealing anything specific? Is
17 A. Every hour.	16 he giving you instructions? Are you updating him? What
18 Q. Would you say that more like -- if you had to	17 type of conversations are you having with him?
19 divide up the -- percentage-wise the number of	18 MR. SWEETEN: You can give -- If you are
20 communications that you have with people in your office	19 able to characterize those, you can give a general
21 from face-to-face conversations, telephone conversations	20 subject matter description. Do not discuss
22 and emails, like about roughly what would that breakdown	21 communications that you've had with Speaker Straus.
23 be?	22 MS. BERKOWER: And I think you mean don't
24 A. My estimation would be 80 percent face-to-face	23 reveal the content.
25 conversations and maybe 20 percent emailing.	24 MR. SWEETEN: I mean, don't discuss the
18	20
1 Q. Do you talk on the phone as well?	1 specifics of the communications you've had with Speaker
2 A. Rarely with co-workers since we're so close in	2 Straus. Do not reveal the substance of them.
3 proximity.	3 A. Generally, I give him an update on policy
4 Q. How about text messaging?	4 issues.
5 A. Occasionally.	5 Q. Are you assigned to certain policy areas?
6 Q. Just in a ballpark, what is occasionally? Like	6 A. Yes.
7 once per day, once per week?	7 Q. What policy areas are those?
8 A. I would estimate two or three teams a week.	8 A. I have five committees. I have county affairs,
9 Q. Does it vary depending if you're in session or	9 urban affairs, pensions, investments and financial
10 not?	10 services, land and resource management and elections.
11 A. Very much.	11 Q. So would it be safe to say that when you give
12 Q. So when you are in session, about how often do	12 policy updates to the -- the -- the speaker, it's based
13 you communicate via text?	13 on any developments from one of those committees that
14 A. Multiple times hourly.	14 you're in charge of?
15 Q. Okay. And you said you searched your phone for	15 MR. SWEETEN: Don't reveal the
16 any relevant communications. Were you searching your	16 communications you've had with the speaker. I think
17 text messages?	17 I've allowed her to give a general subject matter
18 A. Yes.	18 description of communications she had. That's the way
19 Q. Do you keep your text messages generally?	19 you asked it, so we are not going to give you any
20 A. Generally, yes.	20 additional substance of the communications she's had
21 Q. Did you find any text messages that were	21 with Speaker Straus.
22 relevant to this case?	22 Q. Okay. Have you ever been assigned to cover any
23 A. I did not.	23 select committees during your employment?
24 Q. Have you deleted any, do you remember, that	24 A. Yes.
25 were relevant to this case?	25 Q. Which are those?



<p style="text-align: center;">21</p> <p>1 A. I recall two. One is the select committee on 2 voter ID and voter fraud. The other was a select 3 committee on government reform, I believe.</p> <p>4 Q. And since it sounds like you -- there's 5 probably other people between you and Speaker Straus, 6 who do you communicate with most frequently? Who's 7 above you in the office?</p> <p>8 MR. SWEETEN: You can answer that question 9 as phrased.</p> <p>10 A. That would be our budget and policy director 11 which was Lisa Kaufman, and, occasionally, I would talk 12 with Denise Davis.</p> <p>13 Q. So on a day-to-day basis, who are you 14 receiving -- who's supervising you?</p> <p>15 A. That would be Lisa Kaufman.</p> <p>16 Q. Do you know how documents are generally 17 maintained in Speaker Straus's office?</p> <p>18 A. Can you clarify maintained?</p> <p>19 Q. Sure. Do you have a document retention policy 20 or is someone in charge of that?</p> <p>21 A. We don't have an office policy. It's up to the 22 individual's discretion.</p> <p>23 Q. Did you ever receive instructions on how to 24 retain documents or how to exercise that discretion?</p> <p>25 A. I don't recall.</p>	<p style="text-align: center;">23</p> <p>1 A. I don't know a specific number of times. 2 Q. Do you remember how you communicated with him, 3 like what means you used?</p> <p>4 A. Voice-to-voice -- 5 MR. SWEETEN: You can answer.</p> <p>6 A. I'm sorry. Face-to-face conversations.</p> <p>7 Q. Okay. And do you know how Speaker Straus 8 usually communicates with other legislators and their 9 staff?</p> <p>10 A. I do not.</p> <p>11 Q. Are staff allowed on the floor of the House?</p> <p>12 A. Certain staff are.</p> <p>13 Q. Who is allowed?</p> <p>14 A. Staff from the speaker's office.</p> <p>15 Q. Okay. So no other legislator's staff are 16 allowed on the floor?</p> <p>17 A. Generally, no.</p> <p>18 Q. What are the exceptions if you -- it sounds 19 like maybe you think there are a few exceptions.</p> <p>20 A. I don't know if they do ask for specific 21 permission or not.</p> <p>22 Q. Who would they ask?</p> <p>23 A. My -- I don't know.</p> <p>24 Q. Have you seen other staff on the floor?</p> <p>25 A. I can't recall seeing any other staff.</p>
<p style="text-align: center;">22</p> <p>1 Q. But there's nothing written?</p> <p>2 A. Not that I can think of.</p> <p>3 Q. Have you ever maintained any files specific to 4 particular pieces of regulation?</p> <p>5 A. Yes.</p> <p>6 Q. Have you maintained any files specific to 7 pieces of legislation that relate to voter identification?</p> <p>8 A. Yes.</p> <p>9 Q. Did you -- Do you still have those files?</p> <p>10 A. I turned over files to the Attorney General's 11 Office.</p> <p>12 Q. So you have -- you have kept those and they 13 were part of what you gave over in response to this 14 notice?</p> <p>15 A. Yes.</p> <p>16 Q. Were there any files specific to SB14?</p> <p>17 A. Yes.</p> <p>18 Q. When the legislature's in session and there's 19 ongoing hearings, do you ever communicate with the 20 speaker when he's on the floor?</p> <p>21 MR. SWEETEN: You can answer that yes or 22 no.</p> <p>23 A. Yes.</p> <p>24 Q. Now often have you done that?</p>	<p style="text-align: center;">24</p> <p>1 Q. So this might seem a little redundant, but will 2 you be invoking any privileges during your deposition 3 today?</p> <p>4 A. Yes.</p> <p>5 Q. What are those?</p> <p>6 A. Legislative privilege.</p> <p>7 Q. Anything else?</p> <p>8 MR. SWEETEN: Well, I mean, it depends on 9 what you ask her, but, obviously, she will assert the 10 attorney-client privilege with respect to any 11 communications she's had with me, Justice Phillips, 12 members of the Office of the Attorney General. If you 13 ask her about her medical treatment, we may assert the 14 physician --</p> <p>15 Q. (BY MS. BERKOWER) Okay. Well, then we'll be 16 ending early.</p> <p>17 Have you asserted -- Have you asserted any 18 privileges over -- or have you asserted any privileges 19 over documents or other materials in your possession 20 that relate to voter identification legislation?</p> <p>21 MR. SWEETEN: She's just asking -- Do you 22 mean submit it to us, do you mean?</p> <p>23 MS. BERKOWER: Yes, yes. I can -- I can 24 say that again.</p> <p>25 MR. SWEETEN: She was just confused by the</p>



<p style="text-align: center;">25</p> <p>1 question. You can answer whether or not about documents 2 and who they have been turned over to.</p> <p>3 A. Okay. Yes, yes. You asked if I was asserting 4 privilege over documents?</p> <p>5 Q. Yes.</p> <p>6 A. Yes.</p> <p>7 Q. And do you know if documents that relate to 8 voter identification have been withheld from production 9 as a result of your assertion of privilege?</p> <p>10 A. I don't know.</p> <p>11 Q. Can you describe your -- Can you describe your 12 educational background?</p> <p>13 A. Do you want the names of schools I went to?</p> <p>14 Q. Sure.</p> <p>15 A. For college, I went to Southwest Texas and for 16 law school I went to South Texas College of Law.</p> <p>17 Q. When did you graduate law school?</p> <p>18 A. May of 2004.</p> <p>19 Q. Do you maintain an active bar license?</p> <p>20 A. I do.</p> <p>21 Q. Where?</p> <p>22 A. In Texas.</p> <p>23 Q. Anywhere else?</p> <p>24 A. No.</p> <p>25 Q. Can you list all of the jobs you've had since</p>	<p style="text-align: center;">27</p> <p>1 A. Yes.</p> <p>2 Q. What did you do?</p> <p>3 A. He was a lobbyist.</p> <p>4 Q. A lobbying firm?</p> <p>5 A. It's a law firm and a lobbying firm.</p> <p>6 Q. What kinds of issues were you a lobbyist for?</p> <p>7 A. Natural resources. I think our main focus was 8 national resource issues.</p> <p>9 Q. And you said then you left to work for Speaker 10 Straus --</p> <p>11 A. Yes.</p> <p>12 Q. -- in 2009?</p> <p>13 A. Yes.</p> <p>14 Q. What was your -- What was your title when you 15 came to work for Speaker Straus?</p> <p>16 A. Counsel to the speaker on general government.</p> <p>17 Q. Is that still your title?</p> <p>18 A. Yes.</p> <p>19 Q. And so when approximately did you start that 20 position? You may have said that already. I don't remember.</p> <p>21 A. It was February 2009.</p> <p>22 Q. What are your responsibilities in that 23 position?</p> <p>24 A. I'm a policy analyst.</p>
<p style="text-align: center;">26</p> <p>1 you graduated from law school?</p> <p>2 A. Yes.</p> <p>3 Q. What are they?</p> <p>4 A. Do you want dates?</p> <p>5 Q. Just like years or months, if you remember.</p> <p>6 A. Okay. I started at Peggy Hamric in November 7 of 2004 and moved on to Senator Eltife in November of 8 2006. I left his office in March of 2008 and worked for 9 Tim Tuggey and left his office in February of 2009 to 10 work for Speaker Straus.</p> <p>11 Q. And when -- what were -- what was the nature of 12 your jobs for all of these people. They are all Texas 13 legislators. Is that accurate?</p> <p>14 A. All except for Tim Tuggey.</p> <p>15 Q. Okay. So starting with your first position, 16 Ms. Hamric?</p> <p>17 A. Hamric.</p> <p>18 Q. Hamric, what did you do for her?</p> <p>19 A. I was her chief of staff.</p> <p>20 Q. And you said you left then for a senator -- to 21 work for a senator?</p> <p>22 A. Yes. For Senator Eltife. I was his general 23 counsel.</p> <p>24 Q. And after that, you worked for Tim Tuggey, you 25 said?</p>	<p style="text-align: center;">28</p> <p>1 Q. What does that mean?</p> <p>2 A. Generally I read legislation, sit in committee 3 hearings, listen to testimony on pieces of legislation, 4 meet with constituents, meet with special interest 5 groups.</p> <p>6 Q. Do you believe -- Do you provide advice to the 7 speaker about -- about the issues you cover?</p> <p>8 MR. SWEETEN: You can answer the question 9 as phrased yes or no.</p> <p>10 A. Yes.</p> <p>11 Q. Do you advise the speaker on whether to support 12 or oppose legislation that's being heard by the 13 legislature?</p> <p>14 MR. SWEETEN: I think you are starting to 15 get into his -- the processes that he uses to consider 16 legislation when you are asking him that. I think we're 17 moving into a privileged area.</p> <p>18 Q. Are you advising her not to answer?</p> <p>19 A. Yeah. As phrased I am.</p> <p>20 Q. Do you participate in legislative drafting for 21 the speaker?</p> <p>22 MR. SWEETEN: You can answer yes or no to 23 that question.</p> <p>24 A. Can you clarify what you mean by legislative 25 drafting?</p>



<p style="text-align: center;">29</p> <p>1 Q. Do you ever draft legislation? 2 A. No. 3 Q. Do you help other people draft legislation? 4 A. No. 5 Q. Just as a procedural matter, can the speaker -- 6 like among the House rules, can the speaker introduce 7 amendments to a bill? 8 MR. SWEETEN: You are just asking as a 9 general matter -- 10 MS. BERKOWER: As a general matter -- 11 MR. SWEETEN: -- of parliamentary 12 procedure. 13 MS. BERKOWER: Exactly. 14 MR. SWEETEN: She can answer the question. 15 A. No. 16 Q. Can he introduce legislation? 17 A. As a general matter, my understanding is no. 18 Q. Is there any circumstance in which he could -- 19 like, I guess -- and just to be clear, I'm trying to 20 understand if there is a distinction when he's serving 21 as a representative of his district versus as the 22 speaker. Can he introduce legislation at all if he's 23 not sitting as the speaker presiding? 24 A. My understanding of the House rules is no, he 25 does not introduce or carry legislation.</p>	<p style="text-align: center;">31</p> <p>1 Q. And, generally, are people grouped into 2 different areas of responsibility? 3 A. Yes. 4 Q. What -- What are those areas? 5 A. We have communication staff and policy staff. 6 Q. Can you name the members of the policy staff? 7 A. Yes. 8 Q. Who are they? 9 A. Jesse Ancira, Andrew Blifford, Ashley Kaden, 10 Jennifer Deegan, Zeke Reyna, John Schnautz, Kevin 11 Robnett, Andrea Sheridan, Allison Winney. 12 Q. And how are people assigned to different 13 issues? You said you were assigned to certain 14 committees. What is the division of work in the office? 15 MR. SWEETEN: If you are asking about 16 how -- the process by which bills are analyzed or 17 legislation is analyzed, she's not going to answer that 18 question. If they are subject matter areas and it's a 19 general office description, you can answer it that way. 20 MS. BERKOWER: That's what I was asking, 21 the latter. 22 A. Can you repeat the question? 23 MS. BERKOWER: Sure. I guess I'm just 24 curious how work is divided in your office. Is that an 25 acceptable question, Patrick?</p>
<p style="text-align: center;">30</p> <p>1 Q. Because he's also the speaker? 2 A. That's my understanding. 3 Q. And does the same -- the same understanding 4 applies to amendments? 5 A. Yes. 6 Q. Have you ever drafted amendments to a bill? 7 A. Yes. 8 Q. So do you work with other legislators to do 9 that? 10 A. Yes. 11 Q. Does the speaker just as a matter of procedure, 12 is he allowed to vote on amendments? 13 A. My understanding is no. 14 Q. What House district does Speaker Straus 15 represent? 16 A. 121. 17 Q. Do you know what the demographics of that 18 district are? 19 A. I do not. 20 Q. Where is the district located generally? 21 A. Generally it's in San Antonio. 22 Q. And I think you sort of got into this a little 23 bit before, but how many staff does the speaker have, 24 just a rough estimate of the number? 25 A. I think a rough estimate would be around 15.</p>	<p style="text-align: center;">32</p> <p>1 MR. SWEETEN: I mean, again, general 2 subject matter or general division of the facts of how 3 the office is organized, but as long as it doesn't 4 reveal legislatively privileged information which would 5 be about how legislation is analyzed, et cetera. 6 A. Generally speaking, it's divided, I guess, by 7 issue. 8 Q. Who works on -- Who worked on voter ID in the 9 office? 10 MR. SWEETEN: You can answer the question 11 as phrased as to who worked on the issue. 12 Q. Anybody else? 13 A. Lisa Kaufman. 14 Q. Anybody else? 15 A. Denise Davis. 16 Q. Did Jesse Ancira work on the voter ID at all? 17 A. Not that I can recall. 18 Q. And to be clear, who is Jesse Ancira and what 19 is his title? 20 A. He is now chief of staff. 21 Q. What was he in 2011? 22 A. General counsel. 23 Q. Do you report to him ever? 24 A. Can you clarify report? 25 Q. Is he your supervisor?</p>



<p style="text-align: center;">33</p> <p>1 A. In a sense, yes.</p> <p>2 Q. And going back just a step or two, the location</p> <p>3 of District 121, is the district located primarily</p> <p>4 within the city or outside the City of San Antonio?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you ever work on issues that are specific to</p> <p>7 District 121?</p> <p>8 A. I don't recall ever working on that specific</p> <p>9 issue related to the district.</p> <p>10 Q. Are there people in your office who do that?</p> <p>11 A. I don't know.</p> <p>12 Q. And when you said that you have assisted others</p> <p>13 with -- with legislative drafting, have you ever</p> <p>14 provided substantive requests to legislative council?</p> <p>15 MR. SWEETEN: Do you mean to Texas</p> <p>16 legislative council?</p> <p>17 MS. BERKOWER: Yes.</p> <p>18 MR. SWEETEN: Has she ever requested</p> <p>19 something from TLC? You can answer the question as</p> <p>20 phrased. I had to think about that a second.</p> <p>21 A. Not in my role in the speaker's office.</p> <p>22 Q. When you worked for other legislators?</p> <p>23 A. Yes.</p> <p>24 Q. Did the speaker recently campaign for office?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">35</p> <p>1 representative becomes the speaker of the House?</p> <p>2 MR. SWEETEN: As a general matter, you can</p> <p>3 answer the question about legislative procedure.</p> <p>4 A. He is voted into the position by the other</p> <p>5 members of the House of Representatives.</p> <p>6 Q. And how does that vote just as a general</p> <p>7 process matter under the House rules? When and how does</p> <p>8 that vote take place?</p> <p>9 A. If I recall correctly, I believe it's on the</p> <p>10 first day of the legislative session, and if I recall</p> <p>11 correctly, it's a secret ballot.</p> <p>12 Q. Are there any public speeches made in</p> <p>13 connection with the election that the different</p> <p>14 potential speakers make?</p> <p>15 MR. SWEETEN: Objection. Compound. But</p> <p>16 you can answer.</p> <p>17 A. I don't recall. I'm trying to think. I don't</p> <p>18 recall.</p> <p>19 Q. Do you remember who Speaker Straus's opponents</p> <p>20 in 2011 for Speaker of the House?</p> <p>21 MR. SWEETEN: You can answer.</p> <p>22 A. I remember Ken Paxton.</p> <p>23 Q. Do you remember any public statements that</p> <p>24 either Mr. Paxton or Speaker Straus made about the vote</p> <p>25 for speaker?</p>
<p style="text-align: center;">34</p> <p>1 Q. Was that for House District 121?</p> <p>2 A. Yes.</p> <p>3 Q. When was that election?</p> <p>4 A. Last month.</p> <p>5 Q. Would that be the May 29th election?</p> <p>6 A. Yes.</p> <p>7 Q. What was the -- What was the outcome of that</p> <p>8 election?</p> <p>9 A. He won reelection.</p> <p>10 Q. Was he -- Did he have an opponent in the</p> <p>11 primary?</p> <p>12 A. He did.</p> <p>13 Q. It was a primary, right?</p> <p>14 A. Yes.</p> <p>15 Q. Was photo ID an issue in his campaign?</p> <p>16 MR. SWEETEN: You can talk about matters</p> <p>17 of public record, campaign speeches, public statements,</p> <p>18 but don't reveal communications you've had with Speaker</p> <p>19 Straus, anything that's not public record.</p> <p>20 A. I don't know.</p> <p>21 Q. So just to be clear, do you know if the speaker</p> <p>22 ever publicly discussed voter ID as part of his</p> <p>23 campaign?</p> <p>24 A. I don't know.</p> <p>25 Q. Can you explain the process by which a</p>	<p style="text-align: center;">36</p> <p>1 A. I don't.</p> <p>2 Q. So do you remember any public statements that</p> <p>3 Speaker Straus made in connection with his running for</p> <p>4 Speaker of the House?</p> <p>5 A. I don't.</p> <p>6 Q. Did you have any involvement with the process</p> <p>7 by which he became Speaker of the House? It's a yes or</p> <p>8 no question.</p> <p>9 MR. SWEETEN: You can answer that --</p> <p>10 A. No.</p> <p>11 MR. SWEETEN: -- as phrased.</p> <p>12 Q. When is the last time that you voted?</p> <p>13 A. Last month.</p> <p>14 Q. Was it in the May 29th election?</p> <p>15 A. It was early voting.</p> <p>16 Q. For the May 29th election?</p> <p>17 A. Yes.</p> <p>18 Q. Did you vote in person?</p> <p>19 A. Yes.</p> <p>20 Q. Do you usually vote in person?</p> <p>21 A. Yes.</p> <p>22 Q. How far is the -- is your polling place from</p> <p>23 your house?</p> <p>24 A. Six miles.</p> <p>25 Q. Was that -- Is it the same distance for an</p>



<p style="text-align: center;">37</p> <p>1       early voting polling place and an election day polling 2       place?</p> <p>3       A. I don't know.</p> <p>4       Q. When you've gone in person to vote, have you 5       ever witnessed anyone try to impersonate another voter?</p> <p>6       A. No.</p> <p>7       Q. Have you ever witnessed a noncitizen trying to 8       vote?</p> <p>9       A. No.</p> <p>10      Q. Have you ever challenged a voter's eligibility?</p> <p>11      A. No.</p> <p>12      Q. So in the time that you've worked in the House, 13     has anyone that you've worked for served on any 14     committee that handled election issues? And at this 15     point I'm asking generally not just with regard to 16     Speaker Straus because I know she said she's worked for 17     other members of the legislature as well.</p> <p>18       MR. SWEETEN: Can you read back the 19     question?</p> <p>20       (Requested portion was read.)</p> <p>21       MR. SWEETEN: You can answer.</p> <p>22       A. In my -- When I was working for them?</p> <p>23       Q. Just in the whole time you worked in the 24     legislature, has anyone you worked for served on a 25     committee that handled election issues?</p>	<p style="text-align: center;">39</p> <p>1       anything -- anything -- any specific committee 2       appointments, can you explain what the speaker's 3       responsibilities are with regard to committee 4       appointments?</p> <p>5            MR. SWEETEN: You can answer as a general 6       matter.</p> <p>7       A. Can you clarify what his responsibilities are?</p> <p>8            Q. Well, under the rules is it true that the 9       speaker makes committee appointments?</p> <p>10       A. Yes.</p> <p>11       Q. So as a general matter without revealing 12     anything about any specific appointment, can you explain 13     how that process works?</p> <p>14            MR. SWEETEN: How the process of selecting 15     committee appointments works? Is that what you are 16     asking?</p> <p>17       MS. BERKOWER: Yeah.</p> <p>18       MR. SWEETEN: So basically what you'd be 19     asking is how does Speaker Straus decide who's on a 20     committee. To me, that would be privileged.</p> <p>21       Q. I think my original question before I tried to 22     explain it a bit asked as general matter under the 23     rules, so if there are rules that govern the procedure 24     of making committee appointments, if she could just 25     speak to those.</p>
<p style="text-align: center;">38</p> <p>1       A. Yes.</p> <p>2       Q. Who is that?</p> <p>3       A. Senator Eltife was in the committee of the 4       wholes in the Senate.</p> <p>5       Q. When are you referring to?</p> <p>6       A. When voter ID was discussed.</p> <p>7       Q. Did you work for him at that time?</p> <p>8       A. No.</p> <p>9       Q. Okay. So I guess I should make my question 10      more specific.</p> <p>11       A. Sorry.</p> <p>12       Q. That's okay. During the time that you've 13      worked for other legislators, have they served on 14      committees that handled election issues?</p> <p>15       A. Not that I recall.</p> <p>16       Q. Do you have any experience in election law?</p> <p>17       A. Generally speaking, no.</p> <p>18       Q. But you said that the elections committee is 19      now one of the committees that you're assigned to in 20      your current position.</p> <p>21       A. Yes.</p> <p>22       Q. So would you -- would you -- do you have -- Is 23      that the full basis of your experience in election law?</p> <p>24       A. Yes.</p> <p>25       Q. As a general matter without revealing</p>	<p style="text-align: center;">40</p> <p>1       MR. SWEETEN: In other words, is there 2       a -- are there written rules, I mean, she can refer to? 3       If there is a document that exists, it's called written 4       rules on that, but I'm not going to let her talk about 5       how committees would be chosen. I think that's part of 6       the legislative privilege.</p> <p>7       MS. BERKOWER: Well, I guess what I'm 8       trying to say is there are rules that govern the House, 9       so are there any rules that dictate how --</p> <p>10       MR. SWEETEN: House rules that dictate 11      committee appointments is the question. That's fine.</p> <p>12       Q. Okay. Great. Do you know?</p> <p>13       A. I don't know.</p> <p>14       Q. Okay. Well, I'm glad we got that out of the 15      way. So have you had any involvement yourself in 16      committee -- in committee appointments? I'm not asking 17      what the involvement was. I'm just asking --</p> <p>18       MR. SWEETEN: Okay. You can answer yes or 19      no.</p> <p>20       A. No.</p> <p>21       Q. Are you familiar with the select committee on 22      voter identification and voter fraud?</p> <p>23       MR. SWEETEN: Familiar with the committee, 24      you can answer that.</p> <p>25       A. Yes.</p>



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<p style="text-align: center;">41</p> <p>1 Q. When was that convened?</p> <p>2 MR. SWEETEN: You can answer.</p> <p>3 A. In the 2011 session.</p> <p>4 Q. And how are special committees or select</p> <p>5 committees formed as a general matter?</p> <p>6 MR. SWEETEN: I think you are asking for</p> <p>7 process.</p> <p>8 MS. BERKOWER: Yes.</p> <p>9 MR. SWEETEN: That would be subject to the</p> <p>10 legislative privilege. In other words, she can answer</p> <p>11 as a general matter who select -- who appoints a select</p> <p>12 committee, but then if you are asking why --</p> <p>13 MS. BERKOWER: I'm not asking --</p> <p>14 MR. SWEETEN: I don't think she can reveal</p> <p>15 legislative privilege.</p> <p>16 MS. BERKOWER: I'm not asking why. I'm</p> <p>17 asking the general process as a general matter pursuant</p> <p>18 to House rules how are select committees run. If you</p> <p>19 want, I can specify based on what's in the public record</p> <p>20 and publicly available rules how are committees formed.</p> <p>21 MR. SWEETEN: You can answer that</p> <p>22 question.</p> <p>23 A. I don't know.</p> <p>24 Q. Do you know if the speaker is tasked under any</p> <p>25 rules with that responsibility?</p>	<p style="text-align: center;">43</p> <p>1 A. I believe so.</p> <p>2 Q. Do select committees ever convene for more than</p> <p>3 one session?</p> <p>4 A. I don't know.</p> <p>5 Q. Do you know of any that have?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you know of any other select committees that</p> <p>8 considered only one bill?</p> <p>9 A. I don't --</p> <p>10 Q. Are you aware of any communications between</p> <p>11 your office and other legislators concerning the</p> <p>12 creation of the select committee?</p> <p>13 MR. SWEETEN: You can answer if you are</p> <p>14 aware of any communications.</p> <p>15 A. I am not.</p> <p>16 Q. Are you aware of any communications between</p> <p>17 your office and the lieutenant governor's office</p> <p>18 concerning the creation of the select committee?</p> <p>19 A. I am not.</p> <p>20 Q. Are you aware of any communications between</p> <p>21 your office and the governor's office concerning the</p> <p>22 creation of the select committee?</p> <p>23 A. I am not.</p> <p>24 Q. Have you ever heard a reference to the select</p> <p>25 committee as a "fast track committee"?</p>
<p style="text-align: center;">42</p> <p>1 A. Yes.</p> <p>2 Q. Is he tasked under rules with that</p> <p>3 responsibility?</p> <p>4 A. My understanding is yes.</p> <p>5 Q. And have you ever been involved with the</p> <p>6 creation of a select committee?</p> <p>7 MR. SWEETEN: You can answer yes or no, if</p> <p>8 you've ever -- Do you mean has she had discussions or do</p> <p>9 you mean --</p> <p>10 MS. BERKOWER: I just mean, has she ever</p> <p>11 had any role in the creation of a select committee, just</p> <p>12 as a yes or no question.</p> <p>13 MR. SWEETEN: You can answer yes or no.</p> <p>14 A. No.</p> <p>15 Q. You said that you have heard of the select</p> <p>16 committee on to voter identification and voter fraud.</p> <p>17 Was that -- Did that committee consider a photo ID bill</p> <p>18 in 2011?</p> <p>19 MR. SWEETEN: You can answer.</p> <p>20 A. Yes.</p> <p>21 Q. Did it consider any other bills to your</p> <p>22 knowledge?</p> <p>23 A. To my recollection, no.</p> <p>24 Q. Was it convened for only one legislative</p> <p>25 session?</p>	<p style="text-align: center;">44</p> <p>1 A. No.</p> <p>2 (Exhibit 641 marked.)</p> <p>3 Q. So I have what will be marked as Exhibit 641.</p> <p>4 Have you seen this document before?</p> <p>5 A. It does not look familiar to me.</p> <p>6 Q. What is it -- What does it appear to be?</p> <p>7 A. To me it appears to be a press release.</p> <p>8 Q. Is it from Speaker Straus's office?</p> <p>9 A. I don't know.</p> <p>10 Q. Okay. If you look to the bottom, there's a web</p> <p>11 page where this was printed from. Do you see that?</p> <p>12 A. M-hm. Yes.</p> <p>13 Q. Based on the website address, where does it</p> <p>14 appear that this press release came from?</p> <p>15 A. The website for the Texas House of</p> <p>16 Representatives.</p> <p>17 Q. And does -- the press release at the top of the</p> <p>18 text, it seems to identify it as coming from Speaker</p> <p>19 Straus?</p> <p>20 A. Yes.</p> <p>21 Q. What is the date on the press release?</p> <p>22 A. February 9th, 2011.</p> <p>23 Q. And turning your attention to -- There's a</p> <p>24 break in the middle of the page. Do you see that?</p> <p>25 A. Yes.</p>



<p style="text-align: center;">45</p> <p>1 Q. Two lines up from the break, do you see what 2 that says?</p> <p>3 A. Yes.</p> <p>4 Q. What does it say?</p> <p>5 A. "The fast track select committee on voter 6 identification and voter fraud."</p> <p>7 Q. And what does this press release seem to do as 8 a general matter based on the title and -- I should have 9 said you can read the whole thing if you'd like. Take a 10 moment since you are not familiar with it.</p> <p>11 A. You asked what it appears to do?</p> <p>12 Q. Yes.</p> <p>13 MR. SWEETEN: You can testify about the 14 document that she's put in front of you, but don't -- as 15 you are doing so, do not reveal any sort of motivations 16 of the legislature with respect to this press release. 17 She can ask you about the document. As long as you are 18 not revealing privilege, you can answer.</p> <p>19 A. Okay. It appears to announce a list of 20 committees to the public.</p> <p>21 Q. For the 2011 legislative session?</p> <p>22 A. Yes.</p> <p>23 Q. And the select committee on voter 24 identification and voter fraud is listed. I think it's 25 where we just read from. It's on the first page before</p>	<p style="text-align: center;">47</p> <p>1 A. Yes.</p> <p>2 Q. And in your -- in your memory, can you think of 3 any other committees that you've heard identified as 4 fast track committees in the time you've worked in the 5 legislature?</p> <p>6 MR. SWEETEN: In a public setting such as 7 this?</p> <p>8 MS. BERKOWER: Yes.</p> <p>9 MR. SWEETEN: You can answer.</p> <p>10 A. I don't recall.</p> <p>11 Q. Okay. Do you remember any other bills 12 submitted during the 82nd legislature that addressed 13 mail-in voter fraud?</p> <p>14 A. I know there were some pieces of legislation I 15 don't recall the bill numbers.</p> <p>16 Q. Do you remember what committee they were 17 referred to?</p> <p>18 A. I believe House committee on elections.</p> <p>19 Q. So they were not referred to the select 20 committee?</p> <p>21 A. Not that I recall, but I could be wrong.</p> <p>22 Q. I think though we -- you said before that the 23 select committee only considered one bill. Is that 24 accurate?</p> <p>25 A. Only considered in public hearing, one bill,</p>
<p style="text-align: center;">46</p> <p>1 the break.</p> <p>2 MR. SWEETEN: I think it's also here on 3 the second page.</p> <p>4 MS. BERKOWER: I'm sorry. It's No. 38 on 5 the second page too.</p> <p>6 A. Yes.</p> <p>7 Q. But on the first page, it's identified as a 8 fast track committee; is that accurate?</p> <p>9 A. I don't know if I would say identified.</p> <p>10 Q. Well, the press release says, "Key facts on 11 committees. Fast track select committee on voter 12 identification and voter fraud." Is that accurate?</p> <p>13 A. Yes.</p> <p>14 Q. So does the pretty release identify the select 15 committee on voter identification and voter fraud as a 16 fast track committee?</p> <p>17 A. According to the words on the page, yes.</p> <p>18 Q. Okay. Does the press release identify any 19 other committees as fast track committees? And take 20 your time to review it, if you'd like.</p> <p>21 A. I don't see any other statements to that effect 22 in the document.</p> <p>23 Q. Does this press release seem to identify all of 24 the committees that were announced for the 2011 25 legislative session?</p>	<p style="text-align: center;">48</p> <p>1 yes. To my knowledge, yes.</p> <p>2 Q. Do you remember if more than one bill was 3 actually referred to the select committee as well?</p> <p>4 A. I think there were more than one referred, but 5 I can't recall specifically.</p> <p>6 Q. All right. I have what's going to be marked -- 7 This actually has been used a number of times, but maybe 8 we'll mark it with a new number anyway or 431. Do you 9 know what this is?</p> <p>10 A. Yes.</p> <p>11 Q. What is this?</p> <p>12 A. It looks like it is a printout from the 13 committee website showing specific legislation referred 14 to that committee.</p> <p>15 Q. And how many bills are referred to that 16 committee?</p> <p>17 A. From this document, one.</p> <p>18 Q. And are we talking about the select committee 19 on voter identification, voter fraud?</p> <p>20 A. According to this document, yes.</p> <p>21 Q. Do you know who decides what bills are referred 22 to what committee?</p> <p>23 A. To my knowledge, it is the parliamentarian, the 24 House parliamentarian.</p> <p>25 Q. Are there official criteria by which she</p>



<p style="text-align: center;">49</p> <p>1 decides where things go?</p> <p>2 A. I don't know.</p> <p>3 Q. Are you familiar with the Federal Voting Rights</p> <p>4 Act?</p> <p>5 A. I'm aware there is a Federal Voting Rights Act.</p> <p>6 Q. What is your understanding of the Federal</p> <p>7 Voting Rights Act?</p> <p>8 A. My understanding is that it exists.</p> <p>9 Q. Okay. Do you believe that compliance with the</p> <p>10 Federal Voting Rights Act is an important consideration</p> <p>11 for the legislature?</p> <p>12 MR. SWEETEN: You are asking for her</p> <p>13 mental thoughts, impressions. I think that would be</p> <p>14 subject to the legislative privilege as to whether she</p> <p>15 believed it's important, so I'm going to instruct you</p> <p>16 not to answer the question.</p> <p>17 Q. Do you know if the legislature considers the</p> <p>18 Federal Voting Rights Act when it makes law?</p> <p>19 MR. SWEETEN: Same instruction. You can</p> <p>20 refer to matters of the public record in answering the</p> <p>21 question, but do not reveal thought processes, mental</p> <p>22 impressions, opinions regarding legislation.</p> <p>23 A. I'd have to look at the public record.</p> <p>24 Q. Based on the public record, do you remember any</p> <p>25 discussion about the Federal Voting Rights Acts'</p>	<p style="text-align: center;">51</p> <p>1 Have you ever given any legal advice concerning the</p> <p>2 Federal Voting Rights Act as part of your job?</p> <p>3 A. Yes.</p> <p>4 Q. Have you ever given any policy advice</p> <p>5 concerning the Federal Voting Rights Act as part of your</p> <p>6 job?</p> <p>7 A. Yes.</p> <p>8 Q. And I guess I should have asked you this</p> <p>9 before, but as a general matter without revealing any</p> <p>10 specific information you have communicated to your boss,</p> <p>11 how do you distinguish between legal and policy rights?</p> <p>12 A. That's a tough one. I'm trying to think of a</p> <p>13 way to describe it. I guess the -- I don't really know</p> <p>14 how to describe it. It's rare, I think, for -- in my</p> <p>15 mind to give, I guess, legal advice. I give more policy</p> <p>16 advice than discussing the effect legislation would have</p> <p>17 on -- on current situations, current groups.</p> <p>18 MR. SWEETEN: If you can't answer without</p> <p>19 giving the substance of any advice, then don't answer,</p> <p>20 but if you can answer as a general matter what in your</p> <p>21 mind is the distinction between policy and --</p> <p>22 THE WITNESS: General matter. I don't</p> <p>23 know.</p> <p>24 MR. SWEETEN: Okay.</p> <p>25 A. I don't know.</p>
<p style="text-align: center;">50</p> <p>1 requirements?</p> <p>2 A. Not specifically. I believe that the Federal</p> <p>3 Voting Rights Act was discussed in the public record. I</p> <p>4 don't recall specifics.</p> <p>5 Q. And I think I asked you as a general matter if</p> <p>6 you remembered any public discussion about the Federal</p> <p>7 Voting Rights Act and it seems that you do. So what --</p> <p>8 in connection with what bill do you remember public</p> <p>9 discussion of the Federal Voting Rights Act?</p> <p>10 A. About Senate Bill 14.</p> <p>11 Q. Do you remember a public discussion of the</p> <p>12 Federal Voting Rights Act with respect to any other</p> <p>13 election related bills?</p> <p>14 A. Senate Bill 362 in 2009, and I think that's all</p> <p>15 I can think of.</p> <p>16 Q. Okay. Have you ever given or received any</p> <p>17 legal advice concerning the Federal Voting Rights Act?</p> <p>18 MR. SWEETEN: Don't reveal matters of</p> <p>19 privilege, but in answering the question, don't give any</p> <p>20 substance. She's asking if you've given legal advice.</p> <p>21 You can answer that yes or no.</p> <p>22 A. Can you clarify what you mean by legal advice?</p> <p>23 Q. Well, I guess I actually asked sort of a</p> <p>24 two-part question, and Patrick's right, it is a yes or</p> <p>25 no question, so I'll break it down and make it clear.</p>	<p style="text-align: center;">52</p> <p>1 Q. Would you categorize -- Would you say you give</p> <p>2 more than policy advice than legal advice in your mind?</p> <p>3 A. Yes.</p> <p>4 Q. What's the division roughly percentage-wise?</p> <p>5 A. Roughly I would probably say 95 percent policy.</p> <p>6 Q. Are you familiar with a Federal law called The</p> <p>7 Help America Vote Act?</p> <p>8 A. Yes, I know it exists.</p> <p>9 Q. Do you know any of its terms?</p> <p>10 A. I don't recall any specifics.</p> <p>11 Q. Do you know if HAVA has identification</p> <p>12 requirements for voter registration?</p> <p>13 A. I don't know.</p> <p>14 Q. Were you aware of a Supreme Court decision in</p> <p>15 2008 in -- concerning the Indiana Voter Identification</p> <p>16 law called Crawford versus Marion County Board of</p> <p>17 Elections?</p> <p>18 MR. SWEETEN: In answering the question,</p> <p>19 if it would reveal your analysis, your process in</p> <p>20 evaluating legislation, do not reveal that. That would</p> <p>21 be subject to the legislative privilege including mental</p> <p>22 thoughts, mental impressions, opinions, motivation about</p> <p>23 recommendation. So if you reveal that, then don't</p> <p>24 answer the question as posed.</p> <p>25 Q. I think I just asked a yes or no question. And</p>



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<p style="text-align: center;">53</p> <p>1 if you are aware of the case, is that acceptable?</p> <p>2 MR. SWEETEN: You can -- You can answer</p> <p>3 the yes or no as long as it's not revealing the matter</p> <p>4 of the legislative privilege.</p> <p>5 Q. Did you review the decision at the time it was</p> <p>6 issued?</p> <p>7 MR. SWEETEN: Same objection. If this</p> <p>8 would relate to your motivations, your thought</p> <p>9 processes, your analysis of any legislation, then that</p> <p>10 would be subject to the legislative privilege, so don't</p> <p>11 reveal that.</p> <p>12 A. You asked if I reviewed it? Yes.</p> <p>13 Q. Around the time of the decision, do you</p> <p>14 remember any communications from the public or interest</p> <p>15 groups about the decision?</p> <p>16 A. I don't.</p> <p>17 Q. Are you aware of any communications between</p> <p>18 Texas legislators and officials in Indiana regarding</p> <p>19 photo ID or the Crawford decision?</p> <p>20 A. Can you clarify communications?</p> <p>21 Q. Any contact?</p> <p>22 MR. SWEETEN: You can reveal if contact</p> <p>23 occurred. Don't reveal the substance of contact.</p> <p>24 A. Not that I know of.</p> <p>25 Q. Did you provide any policies concerning</p>	<p style="text-align: center;">55</p> <p>1 bills that involve voter photo ID bill of '09, 2001. To</p> <p>2 the extent that you are asking her about her analysis of</p> <p>3 the Crawford opinion and to the extent that that would</p> <p>4 implicate her analysis, thoughts, mental processes about</p> <p>5 legislation, then I am instructing her not to answer the</p> <p>6 question.</p> <p>7 Q. (BY MS. BERKOWER) Yeah. The decision came out</p> <p>8 in 2008, so if I remember correctly, that's actually</p> <p>9 when you were not employed by the legislature; is that</p> <p>10 accurate?</p> <p>11 A. 2008. Yes.</p> <p>12 Q. So you said you reviewed it at the time that it</p> <p>13 came out. Is it safe to say then when you were not</p> <p>14 employed by the legislature?</p> <p>15 A. I probably need to clarify when I was aware of</p> <p>16 the decision.</p> <p>17 Q. Well, you can clarify?</p> <p>18 A. Okay. I wasn't aware that it came out in -- I</p> <p>19 wasn't aware of it at the time it came out in 2008. I</p> <p>20 became aware of it at a later date.</p> <p>21 MS. BERKOWER: Okay. And will you permit</p> <p>22 her to clarify that it was after she became employed by</p> <p>23 Speaker Straus?</p> <p>24 MR. SWEETEN: You can answer if it was</p> <p>25 before or after you became employed by Speaker Straus,</p>
<p style="text-align: center;">54</p> <p>1 Crawford as part of your job?</p> <p>2 MR. SWEETEN: Don't answer the question.</p> <p>3 If it reveals matters of legislative privilege.</p> <p>4 Instruct you not to answer.</p> <p>5 Q. Are you going to follow that instruction?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Sitting here today and without referring</p> <p>8 to any specific legislation of any specific state, do</p> <p>9 you believe that the Crawford decision impacts a state's</p> <p>10 ability to obtain preclearance of a photo ID law?</p> <p>11 MR. SWEETEN: Don't reveal your thoughts,</p> <p>12 mental impressions about any legislation in answering</p> <p>13 the question. If you cannot do so, do not answer the</p> <p>14 question. If you can do so without revealing matters of</p> <p>15 legislative privilege, you can, but don't reveal your</p> <p>16 thoughts, mental processes about legislation.</p> <p>17 A. I'm going to choose not to answer.</p> <p>18 MS. BERKOWER: Patrick, to be clear, even</p> <p>19 though the question is a general question about any</p> <p>20 state's ability to obtain preclearance without reference</p> <p>21 to any specific law of any state, you're still</p> <p>22 instructing her not to answer?</p> <p>23 MR. SWEETEN: I am, and here's my</p> <p>24 reasoning. She works for Speaker Straus. She's an</p> <p>25 advisor to him. You are asking about a couple Senate</p>	<p style="text-align: center;">56</p> <p>1 yes.</p> <p>2 A. It was after.</p> <p>3 Q. Are you currently a member of any community</p> <p>4 organization or group?</p> <p>5 A. No.</p> <p>6 Q. Are you familiar with the American Legislative</p> <p>7 Exchange Council or ALEC?</p> <p>8 A. Yes.</p> <p>9 Q. What is it?</p> <p>10 A. My understanding is -- Actually, I don't really</p> <p>11 know specifically what they are, I guess.</p> <p>12 Q. Do you know -- And do you know of any members</p> <p>13 or staff of the Texas legislature who are members of</p> <p>14 ALEC?</p> <p>15 A. My understanding is that some members of the</p> <p>16 Texas legislature are members, but I don't know who</p> <p>17 those people are.</p> <p>18 Q. Do you know what services ALEC provides its</p> <p>19 members?</p> <p>20 A. I don't.</p> <p>21 Q. Do you know if ALEC ever has conferences for</p> <p>22 its members?</p> <p>23 A. Yes.</p> <p>24 Q. Have you ever attended one of those</p> <p>25 conferences?</p>



<p style="text-align: center;">57</p> <p>1 A. No.</p> <p>2 Q. Do you know people in the Texas legislature or 3 their staff who have?</p> <p>4 A. Not specifically.</p> <p>5 Q. Has your office ever received any documents 6 from ALEC related to voter ID?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Did ALEC ever give you any technical assistance on 9 voter ID legislation?</p> <p>10 A. No.</p> <p>11 Q. Are you familiar with the national conference 12 of state legislators?</p> <p>13 A. Yes.</p> <p>14 Q. Are you a member of that?</p> <p>15 A. No.</p> <p>16 Q. Have you ever attended any of their meetings?</p> <p>17 A. Yes.</p> <p>18 Q. When was that?</p> <p>19 A. In 2009, if I recall correctly, and 2011, if I 20 recall correctly.</p> <p>21 Q. Did any of the meetings that you attended 22 address voter ID issues?</p> <p>23 A. I don't recall.</p> <p>24 Q. Are there any other groups that focus on policy 25 advice or assistance to legislators that you belong to?</p>	<p style="text-align: center;">59</p> <p>1 Q. And under current law, voters are required to 2 obtain a photo ID; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. So if a voter lost her voter registration card, 5 she could present ID from a wide-range of IDs like the 6 list you just mentioned?</p> <p>7 A. That's my understanding.</p> <p>8 Q. And some of those are non-photo ID?</p> <p>9 A. Yes.</p> <p>10 Q. And the voter could still vote a regular 11 ballot; is that correct?</p> <p>12 A. That's my understanding.</p> <p>13 Q. Do you know of any evidence in the public 14 record that establishes that the current system for 15 verifying an identity of a voter is not effective?</p> <p>16 MR. SWEETEN: I'm going to object to the 17 question. It calls for matters of legislative privilege. Don't reveal your thoughts, mental impressions or analysis about a bill. I think when you are asking her the question, you are asking her to weigh the evidence that you heard --</p> <p>18 MS. BERKOWER: Wait. Patrick, I'm sorry 19 to interrupt you. If she can read back the 20 question, I started the question with as part of the 21 public record.</p>
<p style="text-align: center;">58</p> <p>1 A. No.</p> <p>2 Q. Do you know what the current system is under 3 state law for determining how to verify the identity of 4 a voter?</p> <p>5 MR. SWEETEN: You can answer as to your 6 understanding of current law.</p> <p>7 A. To identify -- Can you repeat it? I'm sorry.</p> <p>8 Q. Sure. What is the current system under Texas 9 law for determining the identity of a voter?</p> <p>10 A. Under current law my understanding is a 11 certain -- they can bring certain documents to the 12 polling place with them.</p> <p>13 Q. Do you know what those documents are?</p> <p>14 A. Off the top of my head, a voter registration 15 card, a utility bill, a phone bill, a bank statement, a 16 photo ID and that's all I can think of.</p> <p>17 Q. So -- And correct me if I'm wrong. In your 18 understanding of current law is a voter can show a voter 19 registration card or if they don't have the voter 20 registration card, there are a variety of things they 21 could show, some of which you just listed.</p> <p>22 A. That's my understanding.</p> <p>23 Q. Upon registering, do you know if a county mails 24 a voter registration card to the voter?</p> <p>25 A. Yes, that's my understanding.</p>	<p style="text-align: center;">60</p> <p>1 MR. SWEETEN: Understand. I heard a lot 2 of that yesterday, a lot of prefaces with the public 3 record, but what we can't do is -- She can refer to 4 matters of the public record, but what she won't do is 5 go to the matters of the public record and select an 6 analysis and give a qualitative judgment about what was 7 in the record. If you want to ask her if something 8 exists, if someone said something the fact of the 9 communication, she can testify, but there won't be any 10 analysis of what was said on the public record, and I 11 think your question did have an analysis portion.</p> <p>12 MS. BERKOWER: I think I asked or I 13 intended to ask -- and we could have the court reporter 14 read back the question, but I think I asked just as a 15 matter of public record was there evidence presented 16 that the current system of identifying voters at the 17 polls is ineffective.</p> <p>18 MR. SWEETEN: You can testify as to 19 matters of the public record. I mean, don't weigh the 20 evidence, but you can say if there was testimony about 21 an issue. Is that clear enough? I mean, is that fair 22 enough?</p> <p>23 MS. BERKOWER: That's fine. I think that 24 was the call of this particular question.</p> <p>25 A. Yes, there was testimony on that issue.</p>



<p style="text-align: center;">61</p> <p>1 Q. What was that testimony? 2 A. I don't specifically recall. 3 Q. Do you remember who provided that testimony? 4 A. Not specifically. 5 Q. What was the purpose of -- of requiring a photo 6 ID given the law already in place? 7 MR. SWEETEN: She can talk about -- I'll 8 let her testify as to her understanding of the general 9 purpose of a bill, but not -- you're having her weigh 10 why this when this is in place, and that is a little 11 beyond -- that would be subject to the legislative 12 privilege. So with that instruction, I would instruct 13 her not to answer that question as phrased, but I will 14 work with you to try to get at what you're asking. 15 A. Can you repeat the question? 16 Q. What was the general purpose of photo ID in 17 Texas? 18 A. To deter voter fraud. 19 Q. So in 2005, just because I didn't -- I'm not 20 entirely sure of which person you worked for, can you 21 just tell me which person you worked for in the 22 legislature in 2005? 23 A. Sure. Peggy Hamric. 24 Q. And she's a representative? 25 A. Yes. No longer, but she was then.</p>	<p style="text-align: center;">63</p> <p>1 A. I don't recall. 2 Q. Do you remember hearing any public statements 3 about House Bill 1706? 4 A. I don't. 5 Q. Do you have any memories at all connected to 6 House Bill 1706? 7 A. I have none. 8 Q. Okay. Now, in the 2007 legislature, who did 9 you work for? 10 A. 2007? I believe it was Senator Eltife. 11 Q. Senator Eltife. And for your work for Senator 12 Eltife, did you work on any election related bills? 13 A. I don't recall working on any election related bills. 15 Q. Was he on -- on a committee that addressed 16 election related bills? 17 A. Not that I recall. 18 Q. So did you have any involvement with any 19 election related bills when you worked for him? 20 A. Not that I recall. 21 Q. Do you remember hearing -- Do you remember 22 hearing about House Bill 218 in that legislative session? 23 A. Not that I recall. 24 Q. Do you know -- And you were present on the</p>
<p style="text-align: center;">62</p> <p>1 Q. Where did she -- What House district did she 2 represent? 3 A. I don't recall. She was from Houston. 4 Q. So like around Houston area? 5 A. M-hm. Sorry. Yes. 6 Q. Are you familiar with the voter ID bill that 7 was introduced in the House in 2005? 8 A. I am not. 9 Q. Did you work on election related issues for 10 Representative Hamric? 11 A. Not that I recall. 12 MS. BERKOWER: Okay. Do you want to take 13 a break? We've been going for a little while. 14 MR. SWEETEN: Sure. 15 MS. BERKOWER: Like 5 minutes? 16 MR. SWEETEN: Yeah, that sounds good. 17 (Recess from 11:10 a.m. to 11:25 a.m.) 18 Q. (BY MS. BERKOWER) So you said that you were 19 not familiar with House Bill 1706 from the 2005 20 legislative session; is that accurate? 21 A. Yes. 22 Q. Do you remember if -- even if you didn't work 23 on it yourself, do you remember if you were present 24 during the vote or any of the floor debate on House Bill 25 1706?</p>	<p style="text-align: center;">64</p> <p>1 House Bill when the bill -- Sorry. You were in the 2 Senate then. Let me think about this for a second. 3 Was Senator Eltife on the state affairs 4 committee by any chance? 5 A. I don't remember. 6 Q. Do you remember being present for any hearing 7 in the -- in the Senate state affairs committee on House 8 Bill 218? 9 A. I don't. 10 Q. Do you remember any public statements made 11 about House Bill 218? 12 A. I don't. 13 Q. As a general matter, were you following voter 14 ID legislation around that time? 15 A. I don't recall following any voter ID legislation. 17 Q. When do you first remember starting to follow 18 voter ID legislation? 19 MR. SWEETEN: If answering it would reveal 20 your thoughts and mental processes, don't answer the question. But if -- I think the question is vague too 22 as phrased, so I'm going to object to the question itself, but also instruct you not to reveal matters of privilege in answering the question. You can answer if 24 you want. 25</p>



<p style="text-align: center;">65</p> <p>1 A. When do I first remember following the issue? 2 February 2009. 3 Q. Okay. So is it safe to say you have no memory 4 at all of House Bill 218? 5 A. It's safe to say that. 6 Q. Now, I guess one thing I'm curious to know is 7 when you started working on -- for Speaker Straus and 8 you were staffed on the elections committee, did you 9 ever look at prior legislation or familiarize yourself 10 with prior legislation on the general topics for the 11 committees you were staffed on to update yourself on 12 those issues?</p> <p>13 MR. SWEETEN: Did she as a general matter 14 review prior bills on committees that she worked on?</p> <p>15 MS. BERKOWER: Yes.</p> <p>16 MR. SWEETEN: Objection to the question as 17 compound. You can answer to the extent you are able.</p> <p>18 A. Generally speaking, sometimes.</p> <p>19 Q. Do you remember ever reviewing House Bill 218 20 or House Bill 1706 for that reason?</p> <p>21 A. I do not recall reviewing either of those 22 pieces of legislation.</p> <p>23 Q. Okay. So bringing us up to 2009, are you aware 24 of a photographic voter identification bill that was 25 introduced in the 81st Texas legislature in 2009?</p>	<p style="text-align: center;">67</p> <p>1 A. I do recall discussions. I don't recall 2 specifics.</p> <p>3 Q. Do you remember any public statements 4 concerning noncitizen voting around that time?</p> <p>5 A. I recall public statements being made, but I 6 don't remember specifics.</p> <p>7 Q. Public statements about noncitizen voting?</p> <p>8 A. Yes.</p> <p>9 Q. Do you remember who made those statements?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you remember where you heard those public 12 statements?</p> <p>13 A. In hearings -- In committee hearings.</p> <p>14 Q. Were those public statements about noncitizens 15 voting made by our legislators?</p> <p>16 A. Yes.</p> <p>17 Q. Do you remember which legislators made those 18 public statements?</p> <p>19 A. Not specifically.</p> <p>20 Q. Do you remember which committee hearing you 21 heard those public statements?</p> <p>22 A. The hearing on Senate Bill 362 and on -- and in 23 the hearing on Senate Bill 14.</p> <p>24 Q. Okay. Well, I think I'm just now asking on 25 Senate Bill 362 in 2009.</p>
<p style="text-align: center;">66</p> <p>1 MR. SWEETEN: You can testify about your 2 awareness of a bill filed.</p> <p>3 A. Yes, I was aware.</p> <p>4 Q. Who introduced that bill?</p> <p>5 A. I don't recall.</p> <p>6 Q. Do you remember any public statements about why 7 the bill was introduced?</p> <p>8 A. Yes.</p> <p>9 Q. What are those statements that you recall?</p> <p>10 A. I don't recall specifics, but I know the 11 reasons for introducing the legislation were discussed.</p> <p>12 Q. Publicly?</p> <p>13 A. Publicly, yes.</p> <p>14 Q. And what are the reasons that you remember 15 being publicly discussed?</p> <p>16 A. Deterrence of voter fraud.</p> <p>17 Q. Was there a particular type of voter fraud that 18 was specified in those public statements?</p> <p>19 MR. SWEETEN: She's asking about public 20 statements, so matters of the public record you can 21 answer.</p> <p>22 A. Yes. I recall statements being made about 23 deterring in-person voter fraud.</p> <p>24 Q. Do you recall statements about mail-in voter 25 fraud around that -- in connection with that bill?</p>	<p style="text-align: center;">68</p> <p>1 A. Okay.</p> <p>2 Q. You said there were public statements by 3 legislators at that time concerning noncitizen voting; 4 is that accurate?</p> <p>5 A. Yes.</p> <p>6 Q. And I think because -- I'm not sure that you 7 were delineating between 2009 and 2011 when I asked you 8 this before. I'll ask you again.</p> <p>9 A. Sorry.</p> <p>10 Q. It's okay. In 2009, do you remember which 11 legislators made public statements about noncitizen 12 voting?</p> <p>13 A. I don't recall specifically who did.</p> <p>14 Q. But it was during the committee hearings on 15 362?</p> <p>16 A. To my recollection, yes.</p> <p>17 Q. Okay. And did you attend those hearings 18 yourself?</p> <p>19 A. Yes.</p> <p>20 Q. Did you determine all of the hearings on 362?</p> <p>21 A. I attended the House hearings and most of the 22 hearings on the Senate floor.</p> <p>23 Q. Do you usually follow legislation in the Senate 24 for -- when you think -- Well, let me start that over. 25 Under what circumstances do you follow</p>



<p style="text-align: center;">69</p> <p>1 legislation in the Senate?</p> <p>2 MR. SWEETEN: Don't answer to the extent</p> <p>3 it would reveal your mental processes, thoughts,</p> <p>4 impressions about -- about specific legislation. You</p> <p>5 can answer as a general matter if you can do so without</p> <p>6 revealing privilege.</p> <p>7 A. I follow every House bill I'm responsible for</p> <p>8 as it goes through the Senate's process.</p> <p>9 Q. 362 is a Senate bill, so with regard to Senate</p> <p>10 bills as a general matter, how do you decide which to</p> <p>11 follow?</p> <p>12 MR. SWEETEN: Same instruction. Don't</p> <p>13 reveal matters of privileges. She's asking your</p> <p>14 decision process to -- I think it's phrased you are</p> <p>15 asking for matters of legislative privilege, if it would</p> <p>16 relate to legislation, so I think the way it's phrased,</p> <p>17 I think you are asking for privileged information.</p> <p>18 Q. Okay. I can try to rephrase it. Is it part of</p> <p>19 your job description to follow bills in the Senate?</p> <p>20 MR. SWEETEN: You can answer that question</p> <p>21 as a general proposition.</p> <p>22 A. Generally speaking, yes.</p> <p>23 Q. As a general matter, is it part of your job</p> <p>24 description to follow bills in the Senate that may come</p> <p>25 to the committees that you staff or that you're covering</p>	<p style="text-align: center;">71</p> <p>1 matters that would reveal your mental processes about</p> <p>2 specific legislation. Again, you are answering as a</p> <p>3 general matter this question. If it would reveal</p> <p>4 matters of privilege, don't reveal them.</p> <p>5 A. Okay. I'm going to choose not to answer.</p> <p>6 Q. Maybe this will help. Is it safe to say that</p> <p>7 if a bill doesn't get a hearing, you would not follow</p> <p>8 it?</p> <p>9 A. Yes.</p> <p>10 Q. Is it safe to say that if a bill gets a hearing</p> <p>11 it looks like and it seems that it might be voted out of</p> <p>12 committee, you might start to follow it?</p> <p>13 A. I think that's safe to say.</p> <p>14 Q. And is it safe to say that if that -- if a bill</p> <p>15 is voted out of committee and is going to get a vote on</p> <p>16 the whole Senate floor, you would attend that hearing?</p> <p>17 MR. SWEETEN: Don't reveal matters as to</p> <p>18 specific legislation. Don't reveal your thought</p> <p>19 processes on that.</p> <p>20 A. Can you repeat the question?</p> <p>21 Q. Yeah. I guess if there's a bill that relates</p> <p>22 to -- that's on the same topic of the committees that</p> <p>23 you cover for the House and it's going to go to a full</p> <p>24 vote in the Senate, would you attend the hearing on that</p> <p>25 bill?</p>
<p style="text-align: center;">70</p> <p>1 in the House?</p> <p>2 MR. SWEETEN: You can answer.</p> <p>3 A. Yes.</p> <p>4 Q. How do you keep track of which bills relate to</p> <p>5 the committees that you cover for the House? And I'm</p> <p>6 asking as a general matter, not with regard to specific</p> <p>7 recommendations.</p> <p>8 A. Generally, I look at the posted committee</p> <p>9 hearings on the Senate to see what bills they are taking</p> <p>10 up for consideration.</p> <p>11 Q. Do you attend every hearing for every Senate</p> <p>12 bill that relates to a topic that you cover for a</p> <p>13 committee in the House?</p> <p>14 A. Generally speaking, no.</p> <p>15 Q. Is there a point in the legislative process at</p> <p>16 which it looks like it might be coming to the House and</p> <p>17 that's when you started attending hearings?</p> <p>18 MR. SWEETEN: Again, as a general matter,</p> <p>19 you can answer.</p> <p>20 A. Generally speaking, yes.</p> <p>21 Q. What is that point?</p> <p>22 A. I don't know if there is a specific point.</p> <p>23 Generally speaking, it's -- Generally speaking, if the</p> <p>24 bills seems to have --</p> <p>25 MR. SWEETEN: Don't reveal specific</p>	<p style="text-align: center;">72</p> <p>1 MR. SWEETEN: Objection. Compound. Same</p> <p>2 instruction and privilege. You can go ahead and answer</p> <p>3 if you can without revealing privilege.</p> <p>4 A. I'm going to choose not to answer.</p> <p>5 Q. Okay. Okay. Do you ever have a role in the</p> <p>6 development of bills in the Senate?</p> <p>7 MR. SWEETEN: Objection. If that calls</p> <p>8 for matters of privilege, don't answer the question.</p> <p>9 Q. Do you know if Speaker Straus has a role in the</p> <p>10 development of bills in the Senate?</p> <p>11 MR. SWEETEN: Same objection.</p> <p>12 MS. BERKOWER: But I'm asking -- Okay.</p> <p>13 I'm asking a yes or no question, if she knows not</p> <p>14 whether he does.</p> <p>15 MR. SWEETEN: But the development -- you</p> <p>16 are talking about the processes of -- of the development</p> <p>17 of legislation. It's -- I think that's problematic from</p> <p>18 the standpoint that she's not going to comment on his</p> <p>19 mental impressions about legislation or his thought</p> <p>20 process.</p> <p>21 Q. So I'm trying to make the question as</p> <p>22 unobjectionable as possible by asking yes or no, if she</p> <p>23 has knowledge if he played a role in the development of</p> <p>24 bills and not tying it to any particular legislation.</p> <p>25 So just as a general matter, does he play a role in the</p>



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<p style="text-align: center;">73</p> <p>1 development of bills in the senate? Yes or no?</p> <p>2 MR. SWEETEN: Are you asking as a general</p> <p>3 -- I mean, does the speaker in general do that? Are you</p> <p>4 asking does Speaker Straus specifically himself play a</p> <p>5 role in the development of Senate bills?</p> <p>6 MS. BERKOWER: I guess I'm asking both,</p> <p>7 and she can answer the first question first.</p> <p>8 MR. SWEETEN: You can answer the first</p> <p>9 question first. Do you understand that?</p> <p>10 A. What was the first question?</p> <p>11 Q. Does the speaker as a general matter play a</p> <p>12 role in the development of bills in the Senate? Is that</p> <p>13 fair, Patrick?</p> <p>14 MR. SWEETEN: Yeah, you can answer the</p> <p>15 question as posed.</p> <p>16 A. I don't know.</p> <p>17 Q. So we don't have to ask the next one. It's</p> <p>18 very helpful.</p> <p>19 Once a bill comes to the House from the</p> <p>20 Senate, what happens to it as a general procedural</p> <p>21 matter?</p> <p>22 MR. SWEETEN: You can answer as a general</p> <p>23 matter.</p> <p>24 A. Generally it will get referred to the House</p> <p>25 committee.</p>	<p style="text-align: center;">75</p> <p>1 Q. You said you communicated with Brian Hebert.</p> <p>2 Was there anyone else in the lieutenant governor's</p> <p>3 office you communicated with?</p> <p>4 A. Not that I recall.</p> <p>5 Q. And around when did these communications take</p> <p>6 place?</p> <p>7 A. I think a month -- or they were during session.</p> <p>8 Q. Were they right after the bill was sent to the</p> <p>9 House? Were they ongoing throughout the session?</p> <p>10 A. They were ongoing throughout the session.</p> <p>11 Q. So is it safe to say this is a list of the</p> <p>12 people you communicated with in the House about Senate</p> <p>13 Bill 362, the people you just named?</p> <p>14 A. Yes.</p> <p>15 Q. And if you think of any others, will you let me</p> <p>16 know?</p> <p>17 A. Yes.</p> <p>18 Q. Great. Okay.</p> <p>19 A. Oh, I just thought of two more. Never mind.</p> <p>20 No, I didn't.</p> <p>21 Q. Okay.</p> <p>22 A. Sorry.</p> <p>23 Q. That's all right. Okay. So we have what has</p> <p>24 been previously marked as Exhibit 29 in another</p> <p>25 deposition. Actually, I do have a copy. You can't have</p>
<p style="text-align: center;">74</p> <p>1 Q. Who makes the decision about where it goes?</p> <p>2 A. To my knowledge, it's the parliamentarian.</p> <p>3 Q. Okay. Once Senate Bill 362 came to the House,</p> <p>4 did you have communications with other legislators or</p> <p>5 staff about the bill?</p> <p>6 MR. SWEETEN: You can answer as to whether</p> <p>7 you had communication.</p> <p>8 A. Yes.</p> <p>9 Q. Who did you have communications with?</p> <p>10 MR. SWEETEN: You can answer. Don't</p> <p>11 reveal the substance of the communications.</p> <p>12 A. Denise Davis, Lisa Kaufman, Steven Schar, Todd</p> <p>13 Smith, Travis Richmond, Dewayne Bohac, Dennis Bonnen,</p> <p>14 Rafael Anchia, Brian Hebert.</p> <p>15 Q. Are there any others?</p> <p>16 A. Jesse Ancira. All I can think of right now.</p> <p>17 Q. And can you say who is Steven Schar?</p> <p>18 A. He was the committee clerk, I believe, for Todd</p> <p>19 Smith for the elections committee.</p> <p>20 Q. What does a committee clerk do?</p> <p>21 A. Generally speaking, they prepare binders,</p> <p>22 copies of legislation for House members sitting on my</p> <p>23 committee.</p> <p>24 Q. And who's Travis Richmond?</p> <p>25 A. He was another staff of Todd Smith.</p>	<p style="text-align: center;">76</p> <p>1 enough copies of this one. Okay. So do you know what</p> <p>2 this is?</p> <p>3 A. It looks like a copy of Senate Bill 362.</p> <p>4 Q. Turning your attention to Page 5 of the bill,</p> <p>5 can you review that -- Page 5 through 7, starting at</p> <p>6 Line 19 on Page 5? Are you finished?</p> <p>7 A. Yes.</p> <p>8 Q. And I should have asked you a second ago and I</p> <p>9 forgot. Without revealing the content, did you have any</p> <p>10 communications with Speaker Straus directly about SB362?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So can I add him to that list of people?</p> <p>13 A. Yes. Sorry.</p> <p>14 Q. Okay. How often did you communicate with him</p> <p>15 about SB362?</p> <p>16 A. A couple times during session.</p> <p>17 Q. Do you remember around when that was?</p> <p>18 A. I don't. It's during session.</p> <p>19 MS. BERKOWER: Patrick, would you allow a</p> <p>20 question like a basic privilege log question of a</p> <p>21 general topic of what she communicated with him about?</p> <p>22 MR. SWEETEN: Yeah. I think a general --</p> <p>23 general description -- privilege log type description is</p> <p>24 okay.</p> <p>25 Q. Okay. As a general matter, what was the topic</p>



<p style="text-align: center;">77</p> <p>1 that you communicated with Speaker Straus about?</p> <p>2 MR. SWEETEN: Let me caution you. Don't</p> <p>3 reveal the substance of the communication other than a</p> <p>4 general subject matter description.</p> <p>5 A. Senate Bill 362.</p> <p>6 MS. BERKOWER: That is general.</p> <p>7 MR. SWEETEN: That's all you're getting.</p> <p>8 MS. BERKOWER: Can you -- Can you say</p> <p>9 whether or not this was the type of communication that</p> <p>10 was more legal advice or policy rights? Will you allow</p> <p>11 that, Patrick?</p> <p>12 MR. SWEETEN: I think you are asking her</p> <p>13 to characterize the communication. She's already told</p> <p>14 you the subject matter. I think that's probably -- I</p> <p>15 don't want to open up the substance of those</p> <p>16 communications that are very clearly within the core of</p> <p>17 the privilege.</p> <p>18 MS. BERKOWER: Well, I won't go any</p> <p>19 further than that, but I do think that is a privilege</p> <p>20 log question because it would relate as to whether there</p> <p>21 was attorney-client privilege or not as part of that</p> <p>22 communication. I mean, there were some instances in</p> <p>23 your privilege log where it specified legal advice and</p> <p>24 some where it didn't with communications.</p> <p>25 MR. SWEETEN: I understand what you are</p>	<p style="text-align: center;">79</p> <p>1 A. Yes.</p> <p>2 Q. Can you explain -- Well, does this section,</p> <p>3 Section 63.0101, describe the types of identification a</p> <p>4 voter must provide in order to vote under this bill?</p> <p>5 A. According to this document, yes.</p> <p>6 Q. Do you have any reason to doubt this is an</p> <p>7 accurate copy of SB362?</p> <p>8 A. No.</p> <p>9 Q. So the -- under this bill, what are the forms</p> <p>10 of identification that are permitted?</p> <p>11 A. As they're listed in here on this document,</p> <p>12 it's a driver's license or personal identification card</p> <p>13 issued to the person by the Department of Public Safety</p> <p>14 has not expired or that expired no earlier than</p> <p>15 two years before the date of brings, a United States</p> <p>16 military identification card that contains the person's</p> <p>17 photograph, a United States citizenship certificate</p> <p>18 issued to the person that contains the person's</p> <p>19 photograph, a United States passport issued to the</p> <p>20 person, a license to carry a concealed handgun issued to</p> <p>21 the person by the Department of Public Safety, a valid</p> <p>22 identification card that contains a person's photograph</p> <p>23 and is issued by an agency or institution of the Federal</p> <p>24 government or an agency, institution or political</p> <p>25 subdivision of this state.</p>
<p style="text-align: center;">78</p> <p>1 saying. I understand where you are coming from, and I'm</p> <p>2 thinking back to her answer previously about not being</p> <p>3 able to specifically distinguish between policy and</p> <p>4 others, so I think that's problematic the way you</p> <p>5 phrased it given her prior testimony here today.</p> <p>6 MS. BERKOWER: What if I asked her if she</p> <p>7 could characterize it?</p> <p>8 MR. SWEETEN: Can we circle back to that?</p> <p>9 I would like to discuss with her her understanding if it</p> <p>10 would be a privileged inquiry. I would like to talk</p> <p>11 with her about the communication and see if there is</p> <p>12 even a distinction that could be made on that issue.</p> <p>13 MS. BERKOWER: Sure.</p> <p>14 MR. SWEETEN: Okay.</p> <p>15 MS. BERKOWER: We'll come back to that.</p> <p>16 MR. SWEETEN: I can step outside and just</p> <p>17 ask you if you want to do it now.</p> <p>18 MS. BERKOWER: I'll withdraw the question</p> <p>19 now. We'll come back to it.</p> <p>20 MR. SWEETEN: Okay. That's fine.</p> <p>21 Q. (BY MS. BERKOWER) So I'm sorry. Maybe you</p> <p>22 won't even remember it anymore, but on Page 5 of the</p> <p>23 exhibit, Exhibit 29, do you see at Line 19 it starts --</p> <p>24 there's a heading there that says, "Documentation of</p> <p>25 Proof of Identification"? Do you see that?</p>	<p style="text-align: center;">80</p> <p>1 Q. So is that the list of photo identifications</p> <p>2 that are permitted under this bill?</p> <p>3 A. As I read them.</p> <p>4 Q. In the document?</p> <p>5 A. Yes.</p> <p>6 Q. Now, starting at Line 22 on Page 6, are there</p> <p>7 alternate forms of identification provided for by the</p> <p>8 bill?</p> <p>9 A. Alternate to photo ID?</p> <p>10 Q. Yes.</p> <p>11 A. Yes.</p> <p>12 Q. So this section lists a number of</p> <p>13 identifications that may or may not have a photo on</p> <p>14 them; is that accurate?</p> <p>15 A. As I read it, yes.</p> <p>16 Q. Does the list of non-photo ID that's permitted</p> <p>17 under this Part B include a utility bill, bank</p> <p>18 statement, government check, paycheck or other</p> <p>19 government document?</p> <p>20 A. According to this document, yes.</p> <p>21 Q. Does it include official mail addressed to the</p> <p>22 person that's at Line 1 on Page 7?</p> <p>23 A. From a government entity, yes.</p> <p>24 Q. Sorry. From a government entity. Does it</p> <p>25 include a certified copy of a birth certificate or other</p>



<p style="text-align: center;">81</p> <p>1 document confirming birth that is admissible in a court 2 of law and establishes the person's identity?</p> <p>3 A. Yes.</p> <p>4 Q. Does it include US citizenship papers issued to 5 the person?</p> <p>6 A. Yes.</p> <p>7 Q. And an original or certified copy of the 8 person's marriage license or divorce decree?</p> <p>9 A. Yes.</p> <p>10 Q. Court records of the person's adoption, name 11 change or sex change are also allowed; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. An identification card issued to the person by 14 a government entity of this state, meaning Texas, or the 15 United States for the purpose of obtaining public 16 benefits including veteran's benefits, Medicaid or 17 Medicare?</p> <p>18 A. Yes.</p> <p>19 Q. A temporary driving permit issued to the person 20 by DPS?</p> <p>21 A. Yes.</p> <p>22 Q. A license issued to the person by the Federal 23 Aviation Administration or other authorized agency of 24 the US?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">83</p> <p>1 MR. SWEETEN: Don't guess or speculate 2 when answering the question.</p> <p>3 A. I don't know.</p> <p>4 Q. What state entities would you consider not to 5 be institutions of the state? Are there any?</p> <p>6 MR. SWEETEN: Aren't you kind of asking 7 for her personal impressions now of what the bill is 8 intending --</p> <p>9 MS. BERKOWER: I'll actually withdraw that 10 question.</p> <p>11 Q. (BY MS. BERKOWER) You said you attended college 12 and law school here in Texas; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Did you go to a public school or a private 15 college for law school?</p> <p>16 A. I went to a public college and a private law 17 school.</p> <p>18 Q. And I forget. What was the name of your public 19 college?</p> <p>20 A. It was Southwest Texas. It's now changed to 21 Texas State.</p> <p>22 Q. Texas State? I guess in your view and not 23 necessarily drawing on your experience as a staff member 24 for Speaker Straus, but your experience as a student, 25 was that -- was Texas State an institution of the state?</p>
<p style="text-align: center;">82</p> <p>1 Q. A library card containing the person's name 2 issued by a public library in Texas?</p> <p>3 A. Yes.</p> <p>4 Q. Or a hunting or fishing license issued by the 5 Texas -- I guess it doesn't specify the Texas Department 6 of Parks and Wildlife, but by the Parks and Wildlife 7 Department?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So based on what we went through, it 10 looks like there are approximately 19 categories of 11 known ID that a voter could use as proof of 12 identification; is that accurate?</p> <p>13 A. According to this document, yes.</p> <p>14 Q. Do you know if a student ID would be permitted 15 under this bill? And I guess I can direct that question 16 specifically to Line 20 on Page 6 that allows for a 17 photo ID issued by an agency, institution or political 18 subdivision of the state.</p> <p>19 A. It doesn't specifically a school ID.</p> <p>20 Q. Are some of the universities in Texas 21 institutions of the state?</p> <p>22 A. I guess it depends on the definition of 23 institution.</p> <p>24 Q. It could -- It could be considered an 25 institution of the state?</p>	<p style="text-align: center;">84</p> <p>1 A. It depends on the definition of institution.</p> <p>2 Q. Did you get something called in state tuition 3 for attending there?</p> <p>4 A. Yes.</p> <p>5 Q. Did you have a photo ID issued by that college?</p> <p>6 A. Yes.</p> <p>7 Q. What was the general legislative purpose of 8 SB362?</p> <p>9 A. In general, to deter voter fraud.</p> <p>10 Q. Did the legislature hear any public testimony 11 about voter fraud in connection with its consideration 12 of SB362?</p> <p>13 MR. SWEETEN: You can testify about 14 matters of the public record.</p> <p>15 A. Did they -- Can you repeat that? Sorry.</p> <p>16 Q. Do you mind reading -- I'll do my best to 17 recreate it. As a matter of public record, did the 18 legislature hear testimony about voter fraud?</p> <p>19 MR. SWEETEN: You can testify about 20 matters of the public record.</p> <p>21 A. Yes.</p> <p>22 Q. And this is in connection with SB362?</p> <p>23 A. Yes.</p> <p>24 Q. What was that public evidence?</p> <p>25 MR. SWEETEN: You can testify about what</p>



<p style="text-align: center;">85</p> <p>1 was testified to, what was said at a public hearing.      2 A. I recall hearing testimony. I don't remember      3 exactly who said it, but there was testimony about      4 in-person voter fraud.</p> <p>5 Q. What was the general -- Like do you remember      6 generally what kind of testimony it was, who came, where      7 they were from? Was it a law enforcement official?</p> <p>8 A. I do recall I think it was just a citizen who      9 was a -- volunteered to be a poll watcher who made a      10 statement that they saw one specific person vote more      11 than once and that person had certain tatoos that made      12 them easily recognizable.</p> <p>13 Q. Do you know if that incident was ever referred      14 to law enforcement authorities?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you know if that individual who volunteered      17 as a poll watcher and related that incident was      18 affiliated with any sort of interest group?</p> <p>19 A. I don't know.</p> <p>20 Q. Do you know if he was affiliated with the King      21 Street Patriots?</p> <p>22 A. I don't know.</p> <p>23 Q. What other evidence concerning voter fraud was      24 presented on the public record in connection with SB362?</p> <p>25 A. I recall -- Again, I don't know the specific</p>	<p style="text-align: center;">87</p> <p>1 would be appropriate in a voter identification bill to      2 solve in-person voting -- in-person voter fraud? Sorry.      3 A. Yes, that was discussed.</p> <p>4 Q. How about in-person voting -- have a problem      5 with in-person voting? You said you don't remember it      6 was discussed?</p> <p>7 A. I do remember it being discussed.</p> <p>8 Q. What was said about it on the public record?</p> <p>9 A. I don't recall specifics. I remember that      10 topic being discussed.</p> <p>11 Q. Do you remember a debate over -- as part of the      12 public record, do you remember any debate over whether      13 certain types of identification should or shouldn't be      14 included in the bill?</p> <p>15 A. Yes.</p> <p>16 Q. What was that debate?</p> <p>17 MR. SWEETEN: Just matters of the public      18 record.</p> <p>19 A. I remember in general just different      20 identification being discussed, and I don't remember      21 specifics.</p> <p>22 Q. Do you remember whether it was discussed on the      23 public record as to whether the terms of this particular      24 bill, SB362, would solve problems related to noncitizens      25 voting?</p>
<p style="text-align: center;">86</p> <p>1 person, but I recall testimony regarding people from      2 across the border -- Texas-Mexico border voting -- being      3 handed a voter registration card that didn't belong to      4 them to go in and vote.</p> <p>5 Q. Do you remember who presented that evidence?</p> <p>6 A. I don't recall the specific person.</p> <p>7 Q. Do you know if that incident as related to the      8 legislature was ever referred to law enforcement      9 authorities?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you remember if the person who presented      12 that evidence advocated for voter ID as a means of      13 deterring noncitizen voting?</p> <p>14 A. I don't recall, no.</p> <p>15 Q. Do you remember if any evidence was presented      16 in the public record indicating that SB362 would solve      17 problems relating to in-person voting fraud?</p> <p>18 A. I do recall a discussion about that topic. I      19 don't recall specifically who said it.</p> <p>20 Q. Do you remember how -- Do you remember if there      21 was testimony and, if so, what that testimony was about      22 how specifically 362 would solve the problem?</p> <p>23 A. I don't recall specifically.</p> <p>24 Q. Do you recall whether there was a discussion in      25 the public record about the specific types of IDs that</p>	<p style="text-align: center;">88</p> <p>1 A. I don't recall.</p> <p>2 Q. Do you remember if Speaker Straus voted for or      3 against SB362?</p> <p>4 A. As a general matter, the speaker doesn't vote      5 on legislation.</p> <p>6 Q. Oh, why not? Or, I mean, I don't mean to -- I      7 guess I can ask that --</p> <p>8 MR. SWEETEN: As a general matter?</p> <p>9 Q. -- as a general matter.</p> <p>10 A. I don't know if it's part of the House rules or      11 if it's just a policy, but my understanding in the Texas      12 House is that most speakers generally do not vote on      13 legislation.</p> <p>14 Q. Are there exceptions to that?</p> <p>15 A. Under the House rules, I think if there's a tie      16 in the votes, I think the speaker can vote. I don't      17 know that he's required to.</p> <p>18 Q. Do you remember the speaker voting in the      19 incident of a tie in your time working for him?</p> <p>20 A. I don't.</p> <p>21 Q. Is the House rule concerning the speaker's      22 ability to vote, is that -- does that mean he actually      23 cannot vote unless there's a tie?</p> <p>24 A. I don't know if it's a House rule or if it's      25 just sort of a policy that different speakers have had.</p>



<p style="text-align: center;">89</p> <p>1 Q. Is it Speaker Straus's policy not to vote 2 unless there's a tie?</p> <p>3 MR. SWEETEN: Objection. Calls for 4 speculation.</p> <p>5 Q. If you know.</p> <p>6 A. I don't know.</p> <p>7 Q. So you said that you did follow SB362 when 8 the -- it was in the committee as a whole in the Senate; 9 is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Did you attend or listen to any of the debates?</p> <p>12 A. Yes.</p> <p>13 Q. Did you have any communications with senators 14 about SB362 while the bill was in the Senate without 15 revealing the content of what you discussed?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Did you have any communications with Senate 18 staff about SB362 while the bill was in the Senate?</p> <p>19 A. Yes.</p> <p>20 Q. Who did you communicate with?</p> <p>21 A. Brian Hebert. I think that's all I can think of. He's the only one that I'm recalling right now.</p> <p>22 Q. When did you call him?</p> <p>23 A. We talked in person on the Senate floor.</p> <p>24 Q. Are you allowed to be on the Senate floor?</p>	<p style="text-align: center;">91</p> <p>1 Q. Do you remember if Senator Fraser, the bill's 2 sponsor, was asked questions during the hearing you 3 attended?</p> <p>4 A. Yes.</p> <p>5 Q. Do you remember hearing Senator Fraser ask 6 whether an analysis of the racial composition of voters 7 without a driver's license had been conducted?</p> <p>8 MR. SWEETEN: You can refer to matters of 9 the public record.</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you know if any such analysis was conducted?</p> <p>12 MR. SWEETEN: Don't reveal -- Don't answer 13 that question. That would reveal legislative privilege. 14 Instruct not to answer --</p> <p>15 MS. BERKOWER: Okay.</p> <p>16 MR. SWEETEN: -- if you know of analysis 17 conducted.</p> <p>18 MS. BERKOWER: Just asking her knowledge, 19 not the content of that analysis, if it actually was 20 conducted. Not asking --</p> <p>21 MR. SWEETEN: Yeah. I think that that 22 goes to her mental processes as to her knowledge of 23 analysis conducted, so I think that's subject to the privilege.</p> <p>24 Q. (BY MS. BERKOWER) Okay. Are you going to</p>
<p style="text-align: center;">90</p> <p>1 A. We are. The speaker's office has a special 2 badge we have to wear to go over there.</p> <p>3 Q. Did you have any communications with Janice 4 McCoy about SB362 while the bill was in the Senate?</p> <p>5 A. I don't recall. It's possible.</p> <p>6 Q. Did you have any communications with either 7 Mr. Hebert or Ms. McCoy even about SB362 before it was 8 considered by the committee as a whole?</p> <p>9 A. With Brian Hebert, yes.</p> <p>10 Q. When did you communicate with him about SB362 11 prior to its hearing in the committee as a whole?</p> <p>12 A. I don't know a specific date. My 13 communications with him were ongoing throughout the 14 session.</p> <p>15 Q. Was it -- Did you communicate with him about 16 SB362 before it was filed?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Did you communicate with Janice McCoy about 19 SB362 before it was filed?</p> <p>20 A. Not that I recall.</p> <p>21 Q. So you said you attended the committee of the 22 whole hearings. Do you remember did you attend a 23 hearing that occurred around or on March 10, 2009?</p> <p>24 A. If that was the date of the committee of the whole, then yes.</p>	<p style="text-align: center;">92</p> <p>1 follow his instruction?</p> <p>2 A. Yes.</p> <p>3 Q. So there's more as a general matter and without 4 connection to any legislation, but in your experience 5 working in the legislature, if a bill's sponsor has 6 asked about certain analysis or to conduct certain 7 analysis concerning his or her bill, does the bill 8 sponsor have an obligation to follow up to seek the 9 information?</p> <p>10 MR. SWEETEN: Don't answer the question. 11 It calls for speculation and it's irrelevant, and it 12 also could implicate the legislative privilege.</p> <p>13 MS. BERKOWER: Yeah. I guess I'd rephrase 14 the question. As a matter of legislative procedure or a 15 general matter of legislative process, if -- when bill 16 sponsors are asked to conduct analysis, do they 17 generally conduct that -- the analysis? Is that an 18 acceptable question?</p> <p>19 MR. SWEETEN: I mean, I think that 20 question is compound. You are asking -- I mean, what 21 possible relevance would it be to have her comment on 22 whether it's appropriate or whether somebody should 23 follow up on a question whether there's not even 24 specificity as to what the legislation is?</p> <p>25 MS. BERKOWER: She's worked for a number</p>



<p style="text-align: center;">93</p> <p>1 of different legislators, so they've all sponsored 2 legislation, and I guess I'm asking for her view of the 3 session -- of a request from the floor to conduct 4 analysis about a bill and whether those requests are 5 generally taken seriously and followed up on or if 6 they're not. I think she would know the answer to that.</p> <p>7 MR. SWEETEN: I think you are asking her 8 to reveal her mental impressions, opinions about the 9 legislative process, about legislation. I mean, I think 10 the question -- and for the other reasons I've 11 expressed, so I object to the question.</p> <p>12 Q. (BY MS. BERKOWER) Okay. I'll move on then. I 13 think this one -- and I know -- I just want to be clear. 14 I'm doing my best to keep these questions within the 15 boundaries of the court's order.</p> <p>16 Do you know if the Department of Public 17 Safety ever reported to the legislature about the racial 18 analysis of voters who do not have a Texas driver's 19 license? And I'm asking that because I think based on 20 the court's most recent order, if it doesn't specify 21 which legislator requested it or which it was reported 22 to, the fact of DPS's ability to transmit to the 23 legislature is not privileged.</p> <p>24 MR. SWEETEN: Risa, can you restate that 25 question?</p>	<p style="text-align: center;">95</p> <p>1 Q. (BY MS. BERKOWER) Do you remember the question? 2 A. Not really. 3 Q. So I'm going to do my best to recreate it. 4 Okay. Do you know if the Department of Public Safety 5 ever -- ever conducted an analysis of the racial 6 composition of voters who do not have a Texas driver's 7 license and presented that information to the 8 legislature without revealing who requested it or to 9 whom any specific individual the response was directed? 10 A. I don't know. 11 MS. BERKOWER: Okay. 12 MR. SWEETEN: We're all doing what we're 13 supposed to do. 14 MS. BERKOWER: All right. We'll move on 15 then. So the turning back to -- 16 MR. PHILLIPS: I'm glad I contributed. 17 MS. BERKOWER: Only a group of lawyers 18 could spend that much time talking to come up with that. 19 Okay. 20 Q. (BY MS. BERKOWER) So moving back to the House 21 in 2009 -- in April 2009, do you remember if the -- some 22 House members signed a pledge circulated by the 23 Republican Party of Texas concerning voter ID? 24 A. I don't know. 25 (Exhibit 642 marked.)</p>
<p style="text-align: center;">94</p> <p>1 MS. BERKOWER: I will do my best to make 2 it clear. 3 MR. SWEETEN: Can you tell me where in the 4 order it specifically says that? Can we pull that out 5 because I want to make sure that my -- 6 MS. BERKOWER: It was this most recent 7 order. 8 MR. SWEETEN: I've got it. 9 MS. BERKOWER: Can we go off the record, 10 please? 11 (Recess from 12:05 p.m. to 12:10 p.m.) 12 MS. BERKOWER: Okay. So we had a 13 discussion off the record. Patrick, do you want to 14 explain what you just said? 15 MR. SWEETEN: Yes. Risa and I had a very 16 civil discussion off the record involving the court's 17 order, Page 9, and along with Chief Justice Phillips, we 18 have reviewed this, and we were -- we were going to 19 allow the witness to answer this question, but we also 20 had an agreement that to the extent that there's a 21 misinterpretation of the order, that in her answering 22 this, there would not be any sort of waiver or argument 23 with respect to this question. Is that our agreement? 24 MS. BERKOWER: That is our agreement. 25 MR. SWEETEN: Okay.</p>	<p style="text-align: center;">96</p> <p>1 Q. Okay. We'll mark this as, I guess, 642. I 2 know it's been marked before, but I don't have the 3 number handy. Do you know what this document is? 4 A. It looks like it's a news article. 5 Q. State press release. Take a look at the first 6 line of the text and take a minute to review the 7 document. 8 A. You asked if it was a press release? 9 Q. Yes. 10 A. It looks like it is. 11 Q. Is it a -- Is it a press release from the 12 Republican Party of Texas? 13 A. It appears to be -- It says Page 4 by the 14 Republican Party of Texas. 15 Q. Does your review of this document refresh your 16 recollection as to whether a pledge was circulated by 17 the Republican Party of Texas concerning voter ID in 18 2009? 19 A. No. 20 Q. No? Okay. Well, turning your attention to the 21 middle of the page, now that you've read it, do you know 22 what it is -- just from reading it, do you understand 23 what you read? 24 A. Yes. 25 Q. And what do you understand it to be?</p>



<p style="text-align: center;">97</p> <p>1           MR. SWEETEN: She's asking for your 2 interpretation of this document. To the extent that 3 would reveal any matter of legislative privilege, don't 4 answer the question, but if you can testify without 5 revealing that, you can.</p> <p>6           A. I understand it to be a press release paid for 7 by the Republican Party of Texas.</p> <p>8           Q. About what topic?</p> <p>9           A. About voter ID.</p> <p>10          Q. The Republican Caucus Members Pledge do Support 11 Strong Voter ID Bills. Is that the title of the 12 document that I just read?</p> <p>13          A. That is the title of the document.</p> <p>14          Q. Does the document outline principles -- 15 statement of principles on voter ID?</p> <p>16          A. According to the document, on the statement of 17 principles concerning voter ID legislation.</p> <p>18          Q. Are there more principles listed there?</p> <p>19          A. According to the document, yes.</p> <p>20          Q. Does one of these -- does the first principle 21 require a -- Does the first principle say, "Ensure a 22 valid voter identification is needed to vote"?</p> <p>23          A. Yes.</p> <p>24          Q. And the second says, "Take effect at the next 25 possible uniform election date"?</p>	<p style="text-align: center;">99</p> <p>1           Do you remember a review of that?</p> <p>2           A. Yes.</p> <p>3           Q. You testified that that bill allowed voters to 4 present non-photo ID; is that correct?</p> <p>5           MR. SWEETEN: I think she testified about 6 what the text the of the bill said on 362. Is that what 7 you are asking?</p> <p>8           MS. BERKOWER: Yes.</p> <p>9           MR. SWEETEN: You can't testify about your 10 impressions of what 362 means or its effect, but you can 11 testify about the text of the bill.</p> <p>12          A. The text of the bill allowed non-photo ID.</p> <p>13          Q. Is the safe to say that the text of 362 does 14 not match up with Item 1 in this pledge?</p> <p>15          MR. SWEETEN: Based upon the text of the 16 language of the bill, you can it -- answer the question, 17 but don't give a qualitative judgment as to your 18 opinions about your -- the bill. So if you can't answer 19 without giving your opinions about it, which would be 20 subject to legislative privilege, my instruction to you 21 would be not to answer the question.</p> <p>22          A. I'm going to choose not to answer.</p> <p>23          Q. Okay. I can ask it slightly differently. SB362 permits non-photo ID; is that correct?</p> <p>24          A. Yes.</p>
<p style="text-align: center;">98</p> <p>1           A. Yes.</p> <p>2           Q. And the third says, "Be free of any 3 registration requirements such as same day voting 4 registration that dilutes the intent of the bill, which 5 is ensuring fair and accurate elections"?</p> <p>6           A. Yes.</p> <p>7           Q. And fourth involves "an increase in criminal 8 penalties;" is that correct?</p> <p>9           A. Yes.</p> <p>10          Q. Do you know if the speaker was asked to sign 11 this pledge by the Republican Party of Texas?</p> <p>12          MR. SWEETEN: Don't reveal any 13 communications that the speaker had with any specific 14 members. If it would be something that does not involve 15 the member or legislative staff and not within the scope 16 of privilege, you can answer the question.</p> <p>17          A. I don't know.</p> <p>18          MS. BERKOWER: Okay. And I think to be 19 clear, I asked about the party, not the other 20 legislators.</p> <p>21          MR. SWEETEN: There's overlap whether 22 there's party -- you know, if one of these guys is a 23 legislator who's also the head of the party, then I 24 think that's why I made the objection.</p> <p>25          Q. Okay. We reviewed SB362 a little while ago.</p>	<p style="text-align: center;">100</p> <p>1           Q. This pledge demands that only valid photo ID is 2 needed to vote, correct?</p> <p>3           MR. SWEETEN: You can testify about the 4 text of the document.</p> <p>5           A. The document says, "Ensure a valid photo 6 identification is needed to vote."</p> <p>7           Q. Did Speaker Straus ever come out publicly to 8 support SB362?</p> <p>9           A. Yes.</p> <p>10          Q. Did he in fact publicly support SB362?</p> <p>11          MR. SWEETEN: You can testify about public 12 statements that you have knowledge of.</p> <p>13          A. Yes.</p> <p>14          Q. Did he make any public statements in support of 15 SB362?</p> <p>16          A. I'm considering letters we wrote to 17 constituents as public statements. Is that okay?</p> <p>18          Q. Sure.</p> <p>19          A. Because we did write -- we had constituents 20 that wrote in on the topic, and he wrote letters back in 21 support.</p> <p>22          Q. With regard to the constituent communications 23 your office received about SB362, did you receive 24 communications in support of expressing constituents' 25 support of the bill?</p>



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<p style="text-align: center;">101</p> <p>1 A. Yes.</p> <p>2 Q. What did those constituents say?</p> <p>3 A. I don't recall specifics, but, generally, they</p> <p>4 supported the concept of a -- of the legislation.</p> <p>5 Q. And I guess this is sort of just a basic</p> <p>6 question. Do you get constituent -- When you say</p> <p>7 constituent mail, do you mean only communications from</p> <p>8 people in House District 121 or people all over the</p> <p>9 state?</p> <p>10 A. All over the state.</p> <p>11 Q. Were there any constituents who wrote to the</p> <p>12 speaker who opposed SB362?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you remember any other public statements</p> <p>15 such as to the media that Speaker Straus made in support</p> <p>16 SB362?</p> <p>17 A. I don't specifically recall.</p> <p>18 Q. Do you remember if there was opposition on the</p> <p>19 public record in the House against SB362?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember who opposed the bill on the</p> <p>22 public record?</p> <p>23 A. On the public record, I recall NAACP, LULAC,</p> <p>24 League of Women Voters, and I know there were individual</p> <p>25 citizens that testified, but I don't know their names.</p>	<p style="text-align: center;">103</p> <p>1 Q. Do you remember anything about the bill that</p> <p>2 Representative Smith introduced concerning voter ID?</p> <p>3 A. Specific? I don't --</p> <p>4 Q. Do you remember anything generally about the</p> <p>5 bill just as it was introduced as part of the public</p> <p>6 record?</p> <p>7 A. No, I don't recall specifics. I would be</p> <p>8 guessing.</p> <p>9 Q. During this election -- Sorry. During this</p> <p>10 legislative session, you were Speaker Straus's liaison</p> <p>11 to the election committee; is that accurate?</p> <p>12 A. Yes.</p> <p>13 Q. And you did --</p> <p>14 A. Sorry. Are we still on 2009?</p> <p>15 Q. 2009.</p> <p>16 A. Okay. Cool.</p> <p>17 Q. And you said earlier you did have ongoing</p> <p>18 communications with Representative Smith and his staff</p> <p>19 throughout the 2009 legislative session?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know if Speaker Straus ever publicly</p> <p>22 came out in support or against Representative Smith's</p> <p>23 bill?</p> <p>24 A. I don't recall.</p> <p>25 Q. As a matter of public record, do you know if</p>
<p style="text-align: center;">102</p> <p>1 Q. Do you remember what their reasons were for the</p> <p>2 opposition on the public records?</p> <p>3 MR. SWEETEN: You can testify about the</p> <p>4 express reasons on the public record. Don't reveal</p> <p>5 what -- I mean, what -- your interpretation of their</p> <p>6 thoughts, mental impressions. You can testify about</p> <p>7 what was on the public record though. I think that's</p> <p>8 what she was asking.</p> <p>9 A. On the public record I recall statements that</p> <p>10 voter fraud either doesn't exist or is not a problem, a</p> <p>11 general dislike of the legislation.</p> <p>12 Q. Do you remember if MALDEF testified on the</p> <p>13 public record in opposition to the bill?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you remember if there was any talk as part</p> <p>16 of the public record on a compromise bill that year?</p> <p>17 A. I don't specifically remember.</p> <p>18 Q. Do you remember if Todd Smith presented an</p> <p>19 alternative bill on the public record that he offered as</p> <p>20 a compromise voter ID bill?</p> <p>21 A. I don't recall.</p> <p>22 Q. Do you remember if Todd Smith introduced a bill</p> <p>23 that would have delayed implementation of the voter ID</p> <p>24 for four years in order to conduct voter education?</p> <p>25 A. I don't specifically recall.</p>	<p style="text-align: center;">104</p> <p>1 attempts to draft some sort of compromise on the</p> <p>2 legislation that session were successful?</p> <p>3 MR. SWEETEN: Only if it's a matter of</p> <p>4 public record can you answer that.</p> <p>5 A. I don't remember.</p> <p>6 Q. What ultimately happened to SB362 in the House?</p> <p>7 A. I don't think it was heard on the House floor.</p> <p>8 Therefore, it died.</p> <p>9 Q. Did something called chubbing happen to Senate</p> <p>10 Bill 362?</p> <p>11 MR. SWEETEN: You can testify as to</p> <p>12 matters of public record, if you know.</p> <p>13 A. Yes.</p> <p>14 Q. What is that?</p> <p>15 MR. SWEETEN: If you can answer as a</p> <p>16 matter of general understanding.</p> <p>17 MS. BERKOWER: That was the intent of my</p> <p>18 question.</p> <p>19 A. It is a term given to extended debate on</p> <p>20 legislation.</p> <p>21 Q. Is it a technique that some House members might</p> <p>22 use to delay consideration of the bill?</p> <p>23 MR. SWEETEN: Just generally? You can</p> <p>24 answer as a general matter.</p> <p>25 A. Yes.</p>



<p style="text-align: center;">105</p> <p>1       Q. After the end of the is 2009 session -- Well, 2 before we get there, how did the 2009 session end as a 3 matter of public record?</p> <p>4       A. I guess the speaker gavelled out. I don't know.</p> <p>5       Q. Would you like to gavel out now?</p> <p>6       A. Yes, please.</p> <p>7       Q. Okay. What were the events leading up to his 8 gaveling out; do you remember?</p> <p>9            MR. SWEETEN: If it's a matter of public 10 record you can testify to, you can.</p> <p>11       A. I -- I don't remember.</p> <p>12       Q. After the -- After he gavelled out at the end of 13 the session, were the House rules changed to prevent 14 chubbing in the future?</p> <p>15            MR. SWEETEN: You are asking her about -- 16 her opinion about why the House rules would have been 17 changed? You can ask her if a specific bill was 18 passed -- If there was a specific House bill passed that 19 related to chubbing, I'll allow her to answer if she 20 knows.</p> <p>21       Q. Okay. I can restate the question. So after 22 the end of the session, and I think this is in line with 23 your objection, Patrick, was there a change in House 24 rules that prevented chubbing?</p> <p>25            MR. SWEETEN: You can answer.</p>	<p style="text-align: center;">107</p> <p>1       for him, what is your role with regard to the interim 2 charge?</p> <p>3            MR. SWEETEN: You can answer if it won't 4 reveal matters of legislative privilege.</p> <p>5       A. I sit in the committee hearings when the topic 6 is discussed.</p> <p>7       Q. Do you ever play any other role? Do you assist 8 them in any way?</p> <p>9       A. Do I assist the committee --</p> <p>10       Q. Yes.</p> <p>11       A. -- with regard to the interim charges?</p> <p>12       Q. Yes.</p> <p>13       A. Yes.</p> <p>14       Q. What do you do?</p> <p>15            MR. SWEETEN: Don't reveal matters of 16 privilege. If you won't be doing, so you can answer the 17 question.</p> <p>18       A. I'm going to choose not to answer.</p> <p>19            MS. BERKOWER: I guess I'm trying to get 20 at more procedural stuff so, I'm not sure that you would 21 object to all of them, so I'll try to ask a few more 22 specific questions, and if you object to those, we'll 23 move on, and if not, she can answer that. Is that 24 acceptable, Patrick?</p> <p>25            MR. SWEETEN: That's fine.</p>
<p style="text-align: center;">106</p> <p>1       A. I don't know.</p> <p>2       Q. Okay. So do you -- do you know what an interim 3 charge is?</p> <p>4       A. Yes.</p> <p>5       Q. What is it?</p> <p>6       A. It is a suggestion of topics do be studied 7 while we're not in session.</p> <p>8       Q. Do you have any role in interim charges issued 9 by the speaker and does the speaker issue the interim 10 charges for the House?</p> <p>11       A. He does.</p> <p>12       Q. Do you have any role in the interim charges 13 issued to committees that you cover for the speaker?</p> <p>14       A. Yes.</p> <p>15       Q. What is that role just as a general matter?</p> <p>16            MR. SWEETEN: What's her role in the 17 speaker's office as to interim charges?</p> <p>18            MS. BERKOWER: No. I was asking --</p> <p>19            MR. SWEETEN: As a committee?</p> <p>20            MS. BERKOWER: I can be more specific. 21 That might help.</p> <p>22            MR. SWEETEN: Okay.</p> <p>23       Q. If the -- If the House speaker issues a 24 committee -- Sorry. If the speaker issues an interim 25 charge that goes to one of the committees that you cover</p>	<p style="text-align: center;">108</p> <p>1       Q. Are you involved with -- Do you assist members 2 on -- Well, I'll withdraw that.</p> <p>3            Does the committee hold hearings during 4 the interim session if they have an interim charge?</p> <p>5            MR. SWEETEN: You can answer.</p> <p>6       A. If the chair chooses to, yes.</p> <p>7       Q. Do you help them organize those hearings?</p> <p>8       A. No.</p> <p>9       Q. Do you ever reach out to potential witnesses to 10 testify?</p> <p>11       A. No.</p> <p>12       Q. Do you ever do research to be presented during 13 those hearings?</p> <p>14            MR. SWEETEN: Don't reveal matters of 15 privilege as to specific legislation. I think you can 16 answer that as a general matter.</p> <p>17       A. No.</p> <p>18            MR. SWEETEN: Okay.</p> <p>19       Q. Do you participate in writing any report or 20 recommendation that comes out of the interim charge?</p> <p>21       A. No.</p> <p>22       Q. Is your role more to observe?</p> <p>23       A. Yes.</p> <p>24       Q. And to bring a report back on what you see?</p> <p>25       A. Yes.</p>



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109

1 Q. Do you remember if any interim charges were  
 2 issued during the -- after the 2009 session that related  
 3 to the elections committee?

4 MR. SWEETEN: I think that's a matter of  
 5 public record. You can go ahead, if you know.

6 A. Yes.

7 Q. It is a matter of public record. Do you know  
 8 if the elections committee held hearings as a result?

9 A. They did.

10 Q. Did they come up with a report at the end of  
 11 their investigation?

12 A. If I recall correctly, they did.

13 (Exhibit 643 marked.)

14 Q. Okay. We have what we'll mark as Exhibit 643,  
 15 please. And I'll represent to you that this is an  
 16 excerpt of the full report which was pretty long. Do  
 17 you recognize this?

18 A. Yes.

19 Q. What is it?

20 A. It is the interim report to the 82nd Texas  
 21 Legislature from the House Committee on Elections.

22 Q. When was it presented?

23 A. It says January 2009 on the document.

24 Q. And turning to the fourth page of the exhibit,  
 25 which is -- actually it says Page 26 on it, but I think

111

1 A. Okay. Okay.

2 Q. You ready?

3 A. Yeah, I think so.

4 Q. So turning to Page 27, does that page describe  
 5 testimony that was presented to the committee?

6 A. Yes.

7 Q. Does it describe testimony presented by Jay  
 8 Dyer from the Attorney General's Office?

9 A. Yes.

10 Q. And does Mr. Dyer explain that there were --  
 11 does he give some information on the number of referrals  
 12 and the incidences of alleged illegal voting and the  
 13 resolution of those cases?

14 A. Yes.

15 Q. And he says that the -- Well, how many  
 16 incidents did he describe?

17 MR. SWEETEN: You are asking what the  
 18 document states?

19 MS. BERKOWER: As recorded in the  
 20 document, yes.

21 MR. SWEETEN: Okay.

22 A. The document says 267 referrals.

23 Q. Since what date?

24 A. Since 2002.

25 Q. And I think I should direct your attention to

110

1 it's the fourth page of this exhibit. It says, "Interim  
 2 Charge No. 3." Do you see that?

3 A. Yes.

4 Q. What -- What does Interim Charge No. 3 provide?

5 A. "Examine the prevalence of fraud in Texas  
 6 elections. Study new laws in other states regarding  
 7 voter identification and recommended statutory changes  
 8 necessary to ensure that only eligible voters can vote  
 9 in Texas elections."

10 Q. Do you remember the issuance of that interim  
 11 charge?

12 A. Yes.

13 Q. And do you remember attending hearings related  
 14 to that interim charge?

15 A. Yes.

16 Q. Do you remember receiving this report when it  
 17 was presented to the legislature at the end of -- or at  
 18 the start of the 2009 legislative session?

19 A. Yes.

20 Q. Turning to Page 27 under testimony -- And did  
 21 you want -- do you want to take a minute and review the  
 22 document? I don't know if you had a chance to do that  
 23 yet.

24 A. Sure.

25 Q. Let me know when you are done.

112

1 the paragraph on background. It indicates the hearing  
 2 was held on June 14th, 2010. Is that accurate?

3 A. Yes.

4 Q. So Mr. Dyer's testimony seems to be limited  
 5 to the periods between 2009 and June 14, 2010. Is that  
 6 an accurate reflection of this report?

7 MR. SWEETEN: You can testify about what  
 8 the document says. Don't testify about your thoughts,  
 9 your mental impressions about the bill.

10 A. The document says since 2002, 267 referrals  
 11 were received by the Attorney General's Office and the  
 12 hearing was on June 14, 2010.

13 Q. Were you present when Mr. Dyer testified?

14 A. I don't recall.

15 Q. So the paragraph that mentions the 267  
 16 referrals of incidents of illegal voting, it goes on to  
 17 describe the resolution of those cases. You reviewed  
 18 that part of the paragraph?

19 A. Yes. The document says, "35 of those alleged  
 20 violations have been resolved with guilty pleas,  
 21 dismissals or plea agreements, while 12 cases remain  
 22 active and the remainder of the cases are either still  
 23 being investigated or the statute of limitations has  
 24 expired."

25 Q. Was there any testimony about the total number



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<p style="text-align: center;">113</p> <p>1 of people voted between 2002 and June 14, 2010?</p> <p>2 A. In this hearing?</p> <p>3 Q. Yes, in this hearing.</p> <p>4 A. I don't remember.</p> <p>5 Q. In the testimony section of this report, do you</p> <p>6 see anything that indicates the number of voters who</p> <p>7 voted during that period?</p> <p>8 A. I'm not seeing it on this page, unless I'm</p> <p>9 missing it.</p> <p>10 Q. So that this report relates -- the testimony --</p> <p>11 the answer would be no?</p> <p>12 A. As far as what is on this document, I'm not</p> <p>13 seeing it.</p> <p>14 Q. Okay. And then Mr. Dyer testified further and</p> <p>15 it's described in the next two paragraphs. The</p> <p>16 paragraph after the one you were just reading, can you</p> <p>17 read the last sentence of that paragraph, please?</p> <p>18 A. "To get a complete picture of voter fraud in</p> <p>19 Texas, further analysis is needed to gather additional</p> <p>20 information from local election and law enforcement</p> <p>21 officials."</p> <p>22 Q. So without -- Do you know if any such analysis</p> <p>23 was ever conducted without revealing any particular</p> <p>24 request by a legislator or any communication back to a</p> <p>25 particular legislator?</p>	<p style="text-align: center;">115</p> <p>1 comes back after an interim charge with a</p> <p>2 recommendation, what do legislators do with that? How</p> <p>3 is that received?</p> <p>4 MR. SWEETEN: Calls for matters of</p> <p>5 legislative privilege and compound.</p> <p>6 Q. Well, do they have public hearings or any</p> <p>7 public discussion on the record of the House about the</p> <p>8 interim charge reports?</p> <p>9 A. Sometimes.</p> <p>10 Q. Do you know if there was such discussion on the</p> <p>11 public record about this interim charge report?</p> <p>12 A. I don't recall if it was specifically</p> <p>13 discussed.</p> <p>14 Q. Do you know if members who participate in</p> <p>15 interim charge investigations ever draft legislation</p> <p>16 simultaneously to their participation in the interim</p> <p>17 charge investigation?</p> <p>18 MR. SWEETEN: I wish -- Sorry. Can you</p> <p>19 say that again, Risa?</p> <p>20 MS. BERKOWER: Yeah. It was a question of</p> <p>21 if she knows whether members who serve on interim charge</p> <p>22 committees ever draft legislation simultaneously to</p> <p>23 their work on the interim charge committee.</p> <p>24 MR. SWEETEN: You are not asking about a</p> <p>25 specific bill? You are just asking generally do they</p>
<p style="text-align: center;">114</p> <p>1 A. I don't know.</p> <p>2 Q. And do you know if the report made a</p> <p>3 recommendation to the legislature? I think it's on Page</p> <p>4 31.</p> <p>5 A. According to the document they did.</p> <p>6 Q. Would that be in the section entitled</p> <p>7 Recommendations?</p> <p>8 A. Yes.</p> <p>9 Q. What did they recommend based on this report?</p> <p>10 A. "Based on the report, the elections committee</p> <p>11 recommends that the legislature adopt legislation</p> <p>12 requiring voters to show photo identification in order</p> <p>13 to cast a ballot at the polls. We ask that free</p> <p>14 identification cards be issued by either the Department</p> <p>15 of Public Safety, the local voter registrar's office if</p> <p>16 the voter is registered in this state, does not already</p> <p>17 have a driver's license and is receiving the</p> <p>18 identification cards with the express intent to vote.</p> <p>19 It is also important that such legislation provide for</p> <p>20 the education of voters on any changes enacted and that</p> <p>21 the Secretary of State and counties coordinate their</p> <p>22 efforts to inform the state's electorate. This law</p> <p>23 should take effect January 1, 2012."</p> <p>24 Q. At a general matter of your experience in the</p> <p>25 legislature, when an interim charge -- when a committee</p>	<p style="text-align: center;">116</p> <p>1 sometimes do that?</p> <p>2 MS. BERKOWER: Yes.</p> <p>3 MR. SWEETEN: Okay. You can answer that</p> <p>4 question as posed to the extent it doesn't reveal the</p> <p>5 legislative privilege.</p> <p>6 A. I don't know.</p> <p>7 MS. BERKOWER: Guys, want to take a lunch</p> <p>8 break?</p> <p>9 MR. SWEETEN: Sure. That sounds good.</p> <p>10 (Recess from 12:45 p.m. to 1:31 p.m.)</p> <p>11 Q. (BY MS. BERKOWER) Okay. So I think when we</p> <p>12 left off at the end of lunch, we were just talking about</p> <p>13 the state interim report that the elections committee</p> <p>14 presented to the House in January 2011. So we'll</p> <p>15 continue with that period of time. During the 2011</p> <p>16 legislative session was a special committee created only</p> <p>17 to address election related or voter ID related</p> <p>18 legislation?</p> <p>19 MR. SWEETEN: Objection. Because you are</p> <p>20 asking the purpose of its creation. She's already</p> <p>21 testified that it was a committee. I think she's</p> <p>22 testified to the matters that you are asking, except to</p> <p>23 the extent you are asking for the mental process, that</p> <p>24 portion.</p> <p>25 Q. Then I'll actually withdraw that question. Was</p>



<p style="text-align: center;">117</p> <p>1      a photo ID bill addressed in the Senate in 2011?</p> <p>2      A. Yes.</p> <p>3                (Exhibit 644 marked.)</p> <p>4      Q. This is exhibit -- We'll just give you a new</p> <p>5      644, please. Do you know what this?</p> <p>6      A. This is a copy of Senate Bill 14.</p> <p>7      Q. And if I represent to you this is Senate Bill</p> <p>8      14 as filed in the Senate, do you have any reason to --</p> <p>9      sorry -- as filed in the House, do you have any reason</p> <p>10     to think that's not actually the case?</p> <p>11     A. No.</p> <p>12     Q. Take a minute to look at the document. You've</p> <p>13     reviewed it?</p> <p>14     A. Yes.</p> <p>15     Q. So do you recognize it?</p> <p>16     A. Yes.</p> <p>17     Q. Are you familiar with its provisions?</p> <p>18     A. Yes.</p> <p>19     Q. Turning your attention to -- it's page --</p> <p>20     page -- well, really it's 4 and 5 of the document is</p> <p>21     what we're going to be looking at. Part G on Page 4 at</p> <p>22     Line 14. Sorry. And then Part H on Page 5 at Line 4.</p> <p>23     Sorry about that. Do you see what that section -- what</p> <p>24     that section says?</p> <p>25     A. Yes.</p>	<p style="text-align: center;">119</p> <p>1      issued by the Department of Public Safety as long as</p> <p>2      those forms of identification have not expired?</p> <p>3                MR. SWEETEN: You can answer about the</p> <p>4      text of the bill, the question.</p> <p>5      A. On the text of the bill, yes.</p> <p>6      Q. And it permits a voter -- the text of this bill</p> <p>7      permits a voter to present a United States military</p> <p>8      identification card that contains the person's</p> <p>9      photograph and has not expired; is that correct?</p> <p>10     A. Yes.</p> <p>11     Q. And it also permits a person -- a voter to</p> <p>12     present a US citizenship certificate that contains a</p> <p>13     photograph; is that correct?</p> <p>14     A. Yes.</p> <p>15     Q. And it permits a US passport issued to the</p> <p>16     person that has not expired; is that accurate?</p> <p>17     A. Yes.</p> <p>18     Q. If you remember our discussion on SB362, were</p> <p>19     there additional types of identification that SB362</p> <p>20     permitted that this bill does not permit?</p> <p>21     MR. SWEETEN: You can answer based on the</p> <p>22     text of the bill.</p> <p>23     Q. And you can refer back to that exhibit if you</p> <p>24     need to.</p> <p>25     A. Yes, yes.</p>
<p style="text-align: center;">118</p> <p>1      Q. Does that section appear to carve out an</p> <p>2      exception for voters presenting photo identification?</p> <p>3      A. It says -- document says, "The requirements for</p> <p>4      identification prescribed by Subsection B do not apply</p> <p>5      to a voter who, one, presents the voter's voter</p> <p>6      registration certificate on offering to vote and, two,</p> <p>7      was 70 years of age or older on January 1, 2012 as</p> <p>8      indicated by the date of birth on the voter's voter</p> <p>9      registration certificate."</p> <p>10     Q. Does that section seem to create an exemption</p> <p>11     for voters over age 70 to the identification</p> <p>12     requirements?</p> <p>13     A. Yes.</p> <p>14     Q. Do you know if that section was taken out of</p> <p>15     the final bill?</p> <p>16     A. I don't recall.</p> <p>17     Q. Turning your attention to Page 8 of the</p> <p>18     document, Section 63.0101, "Documentation of Proof</p> <p>19     Identification." Are you familiar with this section?</p> <p>20     A. Yes.</p> <p>21     Q. Does this section explain which types of photo</p> <p>22     ID a voter may present to vote at the polls?</p> <p>23     A. Yes.</p> <p>24     Q. And does it permit a voter to present a</p> <p>25     driver's license or a personal identification card</p>	<p style="text-align: center;">120</p> <p>1      Q. Did SB362, the text of the bill as you are</p> <p>2      looking at it also permit a voter to use an ID that had</p> <p>3      expired? Actually, I should make that more specific.</p> <p>4                Did it permit a voter to use a driver's</p> <p>5      license or personal identification card that had expired</p> <p>6      for no more than two years?</p> <p>7      A. Yes.</p> <p>8      Q. Whereas, SB14 has filed -- required an</p> <p>9      unexpired version of those identifications; is that</p> <p>10     correct?</p> <p>11     A. Yes.</p> <p>12     Q. And the same goes for the military</p> <p>13     identification. SB362 allowed -- wait a second --</p> <p>14     allowed identification that had expired, whereas, SB14</p> <p>15     as filed did not.</p> <p>16     MR. SWEETEN: Again, you can answer based</p> <p>17     on the text of this.</p> <p>18     A. Yes.</p> <p>19     Q. The same question with regards to passports.</p> <p>20     Did SB362 as it is before you permit an expired passport</p> <p>21     within two years, whereas, SB14 does not? Actually, I'm</p> <p>22     going to withdraw that question.</p> <p>23     A. Okay.</p> <p>24     Q. So is it fair to say there are also types of</p> <p>25     identifications allowed under SB362 as it's before you</p>



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<p style="text-align: center;">121</p> <p>1       that are not included in SB14, the version that's before 2       you?</p> <p>3           A. In the version before me, yes, I believe that 4       would be a fair statement.</p> <p>5       Q. Do you know if there's any evidence in the 6       public record for SB14 that supported the conclusion 7       that only unexpired ID will prevent voter fraud?</p> <p>8           MR. SWEETEN: Objection. Calls for 9       matters of the legislative privilege. If you want to 10      ask it another way, more topically general, I won't 11      object to that question.</p> <p>12      Q. Did you hear anyone testify on the public 13      record that only unexpired IDs will prevent voter fraud?</p> <p>14           MR. SWEETEN: You can answer.</p> <p>15      A. I don't recall.</p> <p>16      Q. Did anyone present any studies on the public 17      record that showed that only unexpired IDs will prevent 18      voter fraud?</p> <p>19           MR. SWEETEN: You can answer.</p> <p>20      A. I don't recall that type of testimony.</p> <p>21      Q. Do you remember any testimony in the public 22      record that explained why the types of identification 23      permitted in SB362 that are not included in SB14 should 24      not be included in SB14?</p> <p>25           MR. SWEETEN: I think you can answer the</p>	<p style="text-align: center;">123</p> <p>1       license?</p> <p>2           A. If I recall correctly, I could be wrong, I 3       think it's every six years. I could be wrong.</p> <p>4           Q. Is it possible to review your license online?</p> <p>5           A. I don't recall. I don't know.</p> <p>6           Q. Do you know if you have to take a new photo 7       every time you renew the license?</p> <p>8           A. I don't know.</p> <p>9           Q. Well, and to your knowledge someone would go at 10      least six years without having do retake the photo, 11      right?</p> <p>12      A. To my knowledge, yes.</p> <p>13      Q. Is it possible -- is it possible that someone 14      would look different in a photo taken six years earlier?</p> <p>15      A. It's possible.</p> <p>16      Q. Do you know if the United States citizenship -- 17      a United States citizenship certificate that contains a 18      photo would ever expire?</p> <p>19      A. I don't know.</p> <p>20      Q. If it didn't expire and it was issued to 21      someone when they were a child, would they still -- is 22      there a chance they would no look like that photograph 23      decades later?</p> <p>24           MR. SWEETEN: Objection. It is compound, 25      calls for speculation. Please go ahead.</p>
<p style="text-align: center;">122</p> <p>1       question based on the public record.</p> <p>2      A. Yes.</p> <p>3      Q. What testimony was that?</p> <p>4      A. Basically that certain IDs allowed under 362, 5      did not require a photo.</p> <p>6      Q. Do you remember who testified to that?</p> <p>7      A. I don't remember specifically who did.</p> <p>8      Q. Do you remember which hearing it was in?</p> <p>9      A. I don't recall if it was House or Senate.</p> <p>10     Q. Did the person who testified to that provide 11      any reasons why a photo ID is necessary to prevent voter 12      fraud?</p> <p>13           MR. SWEETEN: You can answer -- To the 14      extent that reasons were expressed on the record, you 15      can answer the question.</p> <p>16      A. Yes. Reasons were expressed on the record.</p> <p>17      Q. What were those reasons?</p> <p>18      A. On the record I remember testimony that you 19      need to compare a photo to the person's face standing in 20      front of you who's voting.</p> <p>21      Q. And SB14 as filed in the House only permitted 22      unexpired IDs, correct, based on the version you have in 23      front of you?</p> <p>24      A. Yes. On the version in front of me, yes.</p> <p>25      Q. How often do you have to renew a Texas driver's</p>	<p style="text-align: center;">124</p> <p>1       A. There is a chance.</p> <p>2      Q. Do you know how long a United States passport 3      is valid?</p> <p>4      A. Off the top of my head, I don't.</p> <p>5      Q. Now, with regard to driver's licenses, this is 6      something I should have asked you before, do you know if 7      there's a driver's license office for legislators in the 8      capitol next to the mail room?</p> <p>9      A. I don't know. I don't know. I don't know if 10     it's still there.</p> <p>11     Q. Did it exist at one time?</p> <p>12     A. I think it did, but I don't know exactly what 13      type of services they offered.</p> <p>14     Q. Did you ever go there yourself?</p> <p>15     A. Not that I recall.</p> <p>16     Q. Do you know if it's included in the list of 17      driver's license offices on the Department of Public 18      Safety's website?</p> <p>19     A. I don't know.</p> <p>20     Q. Did you have any communications with Senator 21      Fraser or members of his office as he developed SB14 22      without revealing the contents of any communications you 23      may have had?</p> <p>24           MR. SWEETEN: I think it assumes facts in 25      evidence because I don't know that she has testified as</p>



<p style="text-align: center;">125</p> <p>1 to when he developed it, so I think --</p> <p>2 MS. BERKOWER: I'll back up a little.</p> <p>3 MR. SWEETEN: I don't mind asking her</p> <p>4 conversations.</p> <p>5 Q. (BY MS. BERKOWER) So do you know when Senator</p> <p>6 Fraser developed SB14?</p> <p>7 A. I do not.</p> <p>8 Q. Did you have any communications with him or his</p> <p>9 office between the 2009 and 2011 legislative sessions?</p> <p>10 A. Not that I can recall.</p> <p>11 Q. Do you know if Speaker Straus had any</p> <p>12 communications without revealing their content between</p> <p>13 Speaker Straus and Senator Fraser or his office between</p> <p>14 the 2009 and 2011 legislative sessions?</p> <p>15 A. I don't know.</p> <p>16 Q. Did you have any communications with the</p> <p>17 lieutenant governor's office between the 2009 and 2011</p> <p>18 legislative sessions?</p> <p>19 A. Yes.</p> <p>20 Q. Without revealing the content of what you</p> <p>21 discussed, who did you communicate with?</p> <p>22 A. Brian Hebert.</p> <p>23 Q. What was the general topic of those</p> <p>24 communications?</p> <p>25 A. A lot of them were where to go eat for lunch,</p>	<p style="text-align: center;">127</p> <p>1 of the 2011 legislative session?</p> <p>2 MR. SWEETEN: You can answer.</p> <p>3 A. I don't know.</p> <p>4 Q. Do you know if Speaker Straus had any</p> <p>5 communications with the lieutenant governor's office</p> <p>6 about SB14 after the legislative session began without</p> <p>7 revealing the content?</p> <p>8 A. I don't know.</p> <p>9 Q. If a photo ID is expired but was validly</p> <p>10 issued, why doesn't that prove the person is the same</p> <p>11 person on the ID?</p> <p>12 MR. SWEETEN: Don't answer. It calls for</p> <p>13 matters of legislative privilege. Instruct not to</p> <p>14 answer.</p> <p>15 Q. Are you following that instruction?</p> <p>16 A. Yes.</p> <p>17 MR. SWEETEN: You are trying to see if I'm</p> <p>18 wake, aren't you?</p> <p>19 MS. BERKOWER: That's our strategy.</p> <p>20 We give you like these beef fajitas and I slip them in.</p> <p>21 Q. (BY MS. BERKOWER) Do you know what a military</p> <p>22 ID is?</p> <p>23 MR. SWEETEN: You can answer.</p> <p>24 A. Yes.</p> <p>25 Q. What is it?</p>
<p style="text-align: center;">126</p> <p>1 where to go to happy hour. Probably more unwork related</p> <p>2 than work related.</p> <p>3 Q. What were the work related ones about</p> <p>4 without -- as a general matter?</p> <p>5 MR. SWEETEN: If you can give a general</p> <p>6 description, but don't go into the communication.</p> <p>7 A. Generally they were about legislation.</p> <p>8 Q. Were any of them about voter ID legislation?</p> <p>9 A. Yes.</p> <p>10 Q. Were any of them about SB14?</p> <p>11 A. Yes.</p> <p>12 Q. Do you remember when specifically the</p> <p>13 communications with Brian Hebert were about SB14</p> <p>14 occurred?</p> <p>15 A. On -- Throughout the session.</p> <p>16 Q. What about before the session?</p> <p>17 A. I don't recall any conversations before</p> <p>18 session.</p> <p>19 Q. And after the session started, did you have</p> <p>20 communications with Senator Fraser or anyone from his</p> <p>21 office?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Do you know if Speaker Straus without revealing</p> <p>24 any content had any communications with the lieutenant</p> <p>25 governor's office between -- about SB14 before the start</p>	<p style="text-align: center;">128</p> <p>1 A. An ID issued by the military.</p> <p>2 Q. How different forms of military ID are there?</p> <p>3 A. That I don't know.</p> <p>4 Q. Do you know so -- Did you have any</p> <p>5 communications during the time that you worked on SB14</p> <p>6 with anyone about which forms of military ID would be</p> <p>7 acceptable under SB14?</p> <p>8 MR. SWEETEN: I think that would require</p> <p>9 her to reveal her process and analysis and mental</p> <p>10 impressions regarding the bill.</p> <p>11 Q. I can be more specific and, actually, that</p> <p>12 might help here. Did you have any communications with</p> <p>13 non-legislators or anyone outside the legislature about</p> <p>14 which forms of military ID SB14 would be unacceptable</p> <p>15 under SB14?</p> <p>16 A. I don't recall any conversations like that.</p> <p>17 Q. Do you know what a citizenship certificate is?</p> <p>18 A. Yes.</p> <p>19 Q. What is it?</p> <p>20 A. Essentially a piece of paper stating that the</p> <p>21 individual is a citizen of the United States.</p> <p>22 Q. Have you seen one?</p> <p>23 A. I have not.</p> <p>24 Q. Do you know how much it cost to obtain one?</p> <p>25 A. I do not.</p>



<p style="text-align: center;">129</p> <p>1 Q. Do you know how much it would cost to get a 2 replacements citizenship certificate? 3 A. I don't. 4 Q. Do you know what you would have to do to get a 5 replacement? 6 A. I don't. 7 Q. Do you know how long it might take to get a 8 replacement? 9 A. I do. 10 Q. Do you know if citizenship certificates always 11 contain a photo? 12 A. I don't know. 13 Q. Do you know how much it cost to obtain a US 14 passport? 15 A. Off the top of my head, I don't. 16 Q. Do you know what documents you would need to 17 provided to get a passport? 18 A. I believe when I got mine, I had to provide a 19 birth certificate and Social Security card, I think. 20 Q. Have you ever -- Are you familiar with the 21 photo ID laws in Indiana and Georgia? 22 MR. SWEETEN: I'm sorry. Is she familiar 23 with -- 24 Q. Is she familiar with those laws? 25 MR. SWEETEN: You can answer except to the</p>	<p style="text-align: center;">131</p> <p>1 A. Yes. 2 Q. Based on the version of SB14 that you have in 3 front of you, does SB14 -- does that -- does the text of 4 that bill permit all of those types of identification? 5 A. Permit all of the types? 6 Q. Of identification in that Part A2 that we just 7 reviewed in the Georgia law. 8 A. Does SB14 allow all of these? According to the 9 version of Senate Bill 14 in front of me, no. 10 Q. Does this version of Senate Bill 14 allow 11 identification -- a voter to present photo 12 identification issued by a branch, department, agency or 13 entity of the State of Texas other than those issued by 14 DPS as specified? 15 A. Can you repeat the question? 16 Q. Yes. Does SB14 allow a voter to present photo 17 ID issued by any Texas agency other than the Department 18 of Public Safety? 19 A. No, according to this version. 20 Q. Does SB14 permit a voter to present 21 identification issued by any other state? 22 A. In this version of SB14, no. 23 Q. Does SB14 allow a voter to present as 24 identification a photo ID issued by a branch, 25 department, agency or entity of the United States except</p>
<p style="text-align: center;">130</p> <p>1 extent it would reveal your mental processes regarding 2 legislation. 3 Q. It's just a yes or no question. 4 A. Yes. 5 Q. Okay. This has been previously marked as 6 Exhibit 6. Do you know what this is? 7 A. This looks like it is the Georgia statutes. 8 Q. The Georgia photo ID statute? 9 A. Yes. 10 Q. Does this -- Turning your attention to the 11 first page of this exhibit, Part A1, does this provision 12 allow a voter to present a Georgia driver's license 13 properly issued by the appropriate state's agency? 14 A. Yes. 15 Q. Does the law specify that the ID must be 16 unexpired? 17 A. This -- On this document, no. 18 Q. Does this -- Does Part 2 there, the next 19 section, allow a voter to present a valid Georgia voter 20 identification card issued under Code Section 21-2-417.1 21 or other valid identification card issued by a branch, 22 department, agency or entity of the State of Georgia, 23 any other state or the United States authorized by law 24 to issue personal identification so long as it's a photo identification?</p>	<p style="text-align: center;">132</p> <p>1 for US military ID, US citizenship certificates and US 2 passports? 3 A. No. 4 Q. Turning back to the Georgia law, No. 4, listed 5 under where we were looking before, does the Georgia law 6 allow a voter to present photographic identification 7 issued by employers of the State of Georgia or the US 8 government? 9 A. Yes. 10 Q. Does the text of SB14 that you have before you 11 allow that type of identification? 12 A. Can you repeat the question? 13 Q. Yes. The Georgia law, Part 4 there, allows a 14 voter to present identification employee IDs issued by 15 the US government or the State of Georgia. Does SB14 16 permit a voter to present identification that's an 17 employee identification issued by anybody? 18 A. In this version of Senate Bill 14, no. 19 Q. Under Part 6 in the Georgia law, that section 20 permits a voter to present a valid tribal identification 21 card containing a photograph; is that correct? 22 A. Yes. 23 Q. Is there a provision for tribal identification in SB14? 24 A. In the document in front of me, no.</p>



<p style="text-align: center;">133</p> <p>1 Q. Is it fair to say that the Georgia law allows 2 more forms of identification than SB14?</p> <p>3 MR. SWEETEN: Based on the text of the 4 bill --</p> <p>5 MS. BERKOWER: Yes.</p> <p>6 MR. SWEETEN: -- that she's got in front 7 of her? You can answer that.</p> <p>8 A. Based on the text in front of me, yes.</p> <p>9 Q. During the public debate of SB14, did anyone 10 that you heard testify raise concerns that SB14 should 11 have adhered more closely to the Georgia law?</p> <p>12 MR. SWEETEN: You can answer. It's a 13 public record.</p> <p>14 A. On my own public record, I know that Georgia 15 law was discussed. I don't know if anyone specifically 16 suggested that Senate Bill 14 should be closer to the 17 Georgia law.</p> <p>18 Q. Do you know of any concerns raised by 19 constituents who contacted your office that SB14 should 20 have adhered more closely to the Georgia law?</p> <p>21 A. I don't recall.</p> <p>22 Q. Do you know if Speaker Straus ever made any 23 public statements that -- to the effect that SB14 was 24 similar to the Georgia law?</p> <p>25 A. I don't know.</p>	<p style="text-align: center;">135</p> <p>1 Q. Are those requirements that the document must 2 contain the name of the individual, photograph of the 3 individual and an expiration date, and the document must 4 have been issued by the United States or the State of 5 Indiana?</p> <p>6 A. Yes.</p> <p>7 Q. And the expiration date must reveal that the 8 document is either not expired or has not expired -- or 9 expired after the dates of the most recent general 10 election is before the one on which it is presented.</p> <p>11 A. From the document in front of me, yes.</p> <p>12 Q. So does that mean from -- The face of this does 13 it seem that a voter in Indiana could present an expired 14 ID so long as it hasn't expired before the date of the 15 most recent general election?</p> <p>16 A. From the text in front of me, yes.</p> <p>17 Q. And this -- since this document -- I'll 18 rephrase that. Is it fair to say that based on the text 19 in front of you, this -- the Indiana law allows voters 20 to present a wider range of identification than SB14 21 permits based on the text of both bills in front of you?</p> <p>22 A. From the text in front of me, yes.</p> <p>23 Q. During the time that SB14 was considered by the 24 Texas legislature, are you aware of any discussion on 25 the public record about the differences between SB14 and</p>
<p style="text-align: center;">134</p> <p>1 Q. So I have what was previously marked as 2 Exhibit 60. Do you know what this is?</p> <p>3 A. This looks like it is a copy of the Indiana 4 statutes.</p> <p>5 Q. Did you -- Have you read it before?</p> <p>6 A. I have not.</p> <p>7 Q. Take a minute to look at it now. Are you 8 ready?</p> <p>9 A. Yes.</p> <p>10 Q. So looking at Section 1.1C3-5-2-40.5 on the 11 first page of the document -- Did I ask you what this is 12 already?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And you said it was the Indiana voter ID 15 law?</p> <p>16 A. I think I said it was the Indiana statute, but 17 it's the Indiana voter ID law.</p> <p>18 Q. Okay. That Section 40.5, Proof of 19 Identification, does that section seem to define the 20 type of identification acceptable for voters to provide 21 at the polls under this law?</p> <p>22 A. From the text in front of me, yes.</p> <p>23 Q. And does Section 40.5 list four requirements 24 for that identification?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">136</p> <p>1 the Indiana law?</p> <p>2 A. I know the Indiana law was discussed. I don't 3 remember the specifics.</p> <p>4 Q. Do you remember if anyone expressed concern on 5 the public record that SB14 should adhere more closely 6 to the Indiana law?</p> <p>7 A. Again, I just know it was discussed. I 8 don't -- I don't remember specifics.</p> <p>9 Q. What does the term legislative emergency mean 10 within the Texas legislature?</p> <p>11 MR. SWEETEN: You can answer as a general 12 matter what that term means to you to the extent it 13 won't reveal legislative privilege.</p> <p>14 A. I don't know. I've never really thought about 15 it, legislative emergency. I think it can be used to 16 characterize seemingly important legislation.</p> <p>17 Q. When a type of legislation is deemed a 18 legislative emergency, does that mean that the bill -- 19 that the legislation on that topic can be considered 20 earlier in the session?</p> <p>21 MR. SWEETEN: You can answer as a general 22 matter if you know.</p> <p>23 A. As a general matter, it could mean that.</p> <p>24 Q. Do you know just as a matter of procedure if 25 there are any constraints on what types of legislation</p>



<p style="text-align: center;">137</p> <p>1 the governor may declare to be a legislative emergency?</p> <p>2 A. That I don't know.</p> <p>3 Q. Do you know who decides -- I'll rephrase that.</p> <p>4 So do you know if Speaker Straus had any</p> <p>5 communications with the governor about legislative</p> <p>6 emergency prior to the 2011 legislative session?</p> <p>7 MR. SWEETEN: Can you read the question</p> <p>8 back?</p> <p>9 (Requested portion was read.)</p> <p>10 MR. SWEETEN: You can answer. That's a</p> <p>11 general enough subject matter. You can answer the</p> <p>12 question.</p> <p>13 A. I don't know.</p> <p>14 Q. Was photographic voter ID declared to be a</p> <p>15 legislative emergency for the 82nd legislature?</p> <p>16 A. To my recollection, yes.</p> <p>17 Q. And when did you first learn about the</p> <p>18 designation?</p> <p>19 A. I don't remember the date.</p> <p>20 Q. Around when?</p> <p>21 A. Around the start of the session, I think.</p> <p>22 Q. In your time working in the legislature have</p> <p>23 you seen any other election law designated as a</p> <p>24 legislative emergency?</p> <p>25 A. No.</p>	<p style="text-align: center;">139</p> <p>1 A. I don't know.</p> <p>2 Q. Did you follow SB14 in the Senate?</p> <p>3 A. Yes.</p> <p>4 Q. Was SB14 referred to the committee of the whole</p> <p>5 Senate?</p> <p>6 A. Yes.</p> <p>7 Q. How many other bills were referred to the</p> <p>8 committee of the whole Senate during the 2011</p> <p>9 legislative session?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you know if any others were?</p> <p>12 MR. SWEETEN: Objection. Asked and</p> <p>13 answered, but go ahead.</p> <p>14 A. I don't recall any others.</p> <p>15 Q. Do you know how the committee referral process</p> <p>16 works in the Senate?</p> <p>17 A. I don't.</p> <p>18 Q. Did you attend any Senate hearings concerning</p> <p>19 SB14?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember attending a Senate hearing on</p> <p>22 January 25, 2012?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall having any conversation with</p> <p>25 Senator Williams at that hearing?</p>
<p style="text-align: center;">138</p> <p>1 Q. During your time working in the legislature,</p> <p>2 what other types of legislation were designated to be a</p> <p>3 legislative emergency?</p> <p>4 A. I forget the name of the bill, but it was</p> <p>5 the -- how do I say this tactfully? I guess the</p> <p>6 transvaginal thing with abortions. I'm sorry. I can't</p> <p>7 remember the name of the bill because it's been termed</p> <p>8 so many inappropriate things. You have to --</p> <p>9 MR. SWEETEN: That's descriptive enough.</p> <p>10 I will stop there.</p> <p>11 THE WITNESS: Sorry.</p> <p>12 Q. Are you following his advice?</p> <p>13 A. There's that one. What else? Oh, if I'm</p> <p>14 recalling correctly, I think maybe Sanctuary Cities was</p> <p>15 an emergency item last session. Those are the three</p> <p>16 that come to mind. The wand or whatever.</p> <p>17 Q. Do you know if there were any elections held in</p> <p>18 Texas within the first 60 days of the 2011 legislative</p> <p>19 session?</p> <p>20 A. I do not know of any.</p> <p>21 Q. Do you know who had input into the decision to</p> <p>22 designate voter identification as a legislative</p> <p>23 emergency?</p> <p>24 MR. SWEETEN: Don't reveal matters of</p> <p>25 privilege in answering the question.</p>	<p style="text-align: center;">140</p> <p>1 A. Yes.</p> <p>2 Q. Do you know if there was any discussion on the</p> <p>3 public record during that hearing about matching the</p> <p>4 driver's license and voter registration databases?</p> <p>5 A. Yes.</p> <p>6 Q. What was that evidence?</p> <p>7 MR. SWEETEN: You can just talk about</p> <p>8 matters of the public record.</p> <p>9 A. I don't recall specifics. I know that the</p> <p>10 topic was discussed.</p> <p>11 Q. Do you remember in what context it was</p> <p>12 discussed?</p> <p>13 A. Can you elaborate?</p> <p>14 Q. Well, do you remember who was testifying about</p> <p>15 it?</p> <p>16 A. I don't.</p> <p>17 Q. Do you remember if it was someone from the</p> <p>18 Secretary of State's office?</p> <p>19 A. That sounds right.</p> <p>20 Q. Do you remember if it was a person named Ann</p> <p>21 McGeehan?</p> <p>22 A. I know she testified.</p> <p>23 Q. During that hearing?</p> <p>24 A. Yes.</p> <p>25 Q. And I'm not sure if I got this yet. Do you</p>



141

1 remember why the question of matching the driver's  
 2 license and voter registration databases came up or in  
 3 what context?

4 MR. SWEETEN: In what context -- If the  
 5 context would be on the public record, you can answer  
 6 that.

7 MS. BERKOWER: Yes.

8 A. I believe it came up because the question was  
 9 asked -- I'm not sure by who -- if they could match  
 10 registered voters with the driver's license database.

11 Q. Did the person who testified explain why  
 12 someone would want to conduct that match, like what the  
 13 purpose of conducting that match would be?

14 A. They did.

15 Q. What was the reason?

16 MR. SWEETEN: Expressed on the public  
 17 record, you can testify to if you know.

18 A. I recall whoever -- I guess, Ann, whoever was  
 19 testifying, stating that the purpose would be to see how  
 20 many registered voters have a driver's license.

21 Q. What -- Did she explain what that would show on  
 22 the public record?

23 A. I'm sure she did.

24 Q. Was it to show or get an estimate of the number  
 25 of voters who might be impacted by SB14's requirements?

143

1 the number of voters who may not have requisite  
 2 identification under SB14?

3 A. Yes, I remember that coming up.

4 Q. In that context, do you remember any discussion  
 5 on the public record about a match that the Secretary of  
 6 State's office could conduct between the voter  
 7 registration database and the driver's license  
 8 databases?

9 MR. SWEETEN: Just as to the public  
 10 record?

11 A. I recall that testimony.

12 Q. Do you know if the Secretary of State's office  
 13 ever provided the results of that match to members of  
 14 the House without specifying who asked for them or who  
 15 received them?

16 MR. SWEETEN: I think she's answered that  
 17 twice now about analysis. I think I'm going to let her  
 18 answer a third time, but I don't want to keep beating  
 19 this drum, but go ahead, you can answer the question.

20 A. I don't know.

21 Q. Okay. Who were the sponsors of SB14 in the  
 22 House?

23 A. In the house it was Patricia Harless.

24 Q. How is it decided just as a general procedural  
 25 matter who sponsors a bill in the House that comes over

142

1 MR. SWEETEN: If you are asking on matters  
 2 of public record, you can testify as to that.  
 3 A. Can you repeat it? I'm sorry.  
 4 Q. Yeah. Did she explain on the public record  
 5 that the purpose of conducting that match would be to  
 6 show how many voters may not have the identification  
 7 required by SB14?

8 A. Yes.

9 Q. Do you know if that match was in fact  
 10 conducted?

11 A. I don't know.

12 Q. Okay. Did you ever hear anyone else talk on  
 13 the public record about the results of such a match?

14 A. I don't recall hearing anyone talk about the  
 15 results.

16 Q. When the bill was back in the House, did you  
 17 hear anybody say as part of the public record that they  
 18 would -- that they were interested in the results of  
 19 such a match?

20 A. I'm -- I'm -- I don't recall specifically. It  
 21 probably was said, but I can't recall specifically.

22 Q. Maybe I can be a little more specific which  
 23 would help.

24 During the House debates do you remember  
 25 anyone expressing on the public record concerns about

144

1 from the Senate?

2 A. As a general matter, my understanding is a  
 3 senator has the discretion to ask any House member to  
 4 carry their piece of legislation.

5 Q. Does Speaker Straus ever play a role in who  
 6 ends up sponsoring a bill?

7 MR. SWEETEN: Objection. Legislative  
 8 privilege. Unless it's a matter of public record --  
 9 Unless it's a matter of public record, then don't answer  
 10 his process and his role unless that's in the public  
 11 record.

12 A. I'm choosing not to answer.

13 Q. Okay. I guess maybe I should have been more  
 14 clear too. I'm not as familiar with the House rules as  
 15 you are, so are there any House rules that provide for  
 16 the speaker's involvement in the designation of sponsors  
 17 and bills that come from the Senate?

18 A. Not that I'm aware of.

19 Q. Okay. What committee was the bill sent when it  
 20 arrived in the House?

21 A. If I recall correctly, it was sent to the  
 22 select committee on voter ID and voter fraud.

23 Q. Right. Did you follow the special committee  
 24 hearings or select committee hearings?

25 A. Yes.



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<p style="text-align: center;">145</p> <p>1 Q. Did the select committee hold any hearings?</p> <p>2 A. Yes.</p> <p>3 Q. Did witnesses provide testimony at those</p> <p>4 hearings?</p> <p>5 A. Yes.</p> <p>6 Q. Do you remember who provided testimony?</p> <p>7 A. I remember some of the witnesses.</p> <p>8 Q. Who do you remember?</p> <p>9 A. I remember Skipper Wallace. I remember there</p> <p>10 were individual citizens that testified both for and</p> <p>11 against. I remember NAACP, LULAC, MALDEF.</p> <p>12 Q. I may have an exhibit that can help you.</p> <p>13 A. Okay.</p> <p>14 Q. Do you remember how many times the select</p> <p>15 committee held hearings at which testimony was received?</p> <p>16 A. If I recall correctly, I think it was one</p> <p>17 hearing.</p> <p>18 (Exhibit 645 marked.)</p> <p>19 Q. Okay. This will be Exhibit 645, please. Do</p> <p>20 you know what this?</p> <p>21 A. This is a printout of the witness list for</p> <p>22 Senate Bill 14.</p> <p>23 Q. Does this help refresh your memory -- Is this</p> <p>24 for the one hearing that you said the select committee</p> <p>25 held on SB14?</p>	<p style="text-align: center;">147</p> <p>1 Q. What did he say during those meetings?</p> <p>2 MR. SWEETEN: He's not a legislator or</p> <p>3 legislative staff member of a state agency or member of</p> <p>4 the TLC, right?</p> <p>5 THE WITNESS: Right.</p> <p>6 MR. SWEETEN: Okay. So you can answer the</p> <p>7 question.</p> <p>8 A. He expressed support for the legislation. In</p> <p>9 2009, he was complaining that Todd Smith was taking too</p> <p>10 long to get the bill out of committee. He complained to</p> <p>11 me a lot about that. I mean, generally supportive at</p> <p>12 that time of Senate Bill 362.</p> <p>13 Q. In 2009 did you get complaints from other</p> <p>14 constituents or members of the public that Todd Smith</p> <p>15 was taking too long to get the bill out of committee?</p> <p>16 A. Yes.</p> <p>17 Q. About how many of those communications did you</p> <p>18 get from constituents or members of the public?</p> <p>19 A. I don't recall how many.</p> <p>20 Q. More than 10?</p> <p>21 A. From constituents?</p> <p>22 Q. Or from anyone outside the legislature really.</p> <p>23 A. More than 10, yes.</p> <p>24 Q. More than 20?</p> <p>25 A. I don't recall.</p>
<p style="text-align: center;">146</p> <p>1 A. Yes.</p> <p>2 Q. Does this list refresh your memory about who</p> <p>3 testified?</p> <p>4 A. Yes.</p> <p>5 Q. Now, you said Skipper Wallace testified. Who</p> <p>6 is he?</p> <p>7 A. He is I'm -- not sure his title, but he's the</p> <p>8 government's relations person for -- I think it's the</p> <p>9 Republican County Chairs Association, if I have that</p> <p>10 right.</p> <p>11 Q. What did he testify about?</p> <p>12 A. He testified in support of the legislation.</p> <p>13 Q. What were his arguments in support of the</p> <p>14 legislation?</p> <p>15 A. I don't recall specifically.</p> <p>16 Q. Do you remember generally what his arguments</p> <p>17 were?</p> <p>18 A. Generally, he just -- he supported the</p> <p>19 legislation.</p> <p>20 Q. Have you ever spoken or met with him?</p> <p>21 A. Yes.</p> <p>22 Q. When was that?</p> <p>23 A. In the 2009 session. I recall a 2009 session,</p> <p>24 I don't recall whether or not I met with him in the 2011</p> <p>25 session.</p>	<p style="text-align: center;">148</p> <p>1 Q. Did you have meetings with other members of the</p> <p>2 public about SB362 in 2009?</p> <p>3 A. Yes.</p> <p>4 Q. What were the content of those meetings?</p> <p>5 A. Different people or groups would either support</p> <p>6 or not support the legislation and explain the reasons</p> <p>7 why.</p> <p>8 Q. What were the reasons given for their support</p> <p>9 of the bill?</p> <p>10 A. To deter voter fraud, to ensure election</p> <p>11 integrity, to make sure that the person voting is who</p> <p>12 they say they are.</p> <p>13 Q. Did anyone raise the issue of noncitizen voting</p> <p>14 with you during those meetings?</p> <p>15 MR. SWEETEN: We're talking about</p> <p>16 constituent meetings?</p> <p>17 MS. BERKOWER: Meetings, yeah.</p> <p>18 A. I believe the topic came up, but I don't</p> <p>19 remember exactly who said it.</p> <p>20 Q. Did you meet with who opposed the bill? And</p> <p>21 I'll think now we jump back in time a little bit to</p> <p>22 2009.</p> <p>23 A. Who opposed the bill? Gosh, I had so many</p> <p>24 meetings in that session. I think there's a group</p> <p>25 that's called -- they go by the acronym OWLS, and</p>



149

1       they -- they call themselves objective election  
 2       watchers, I think. Actually, wait. They supported the  
 3       bill. You are looking for who I met that opposed it.  
 4           If I recall correctly, I think I met with  
 5       the representatives from NAACP, LULAC, MALDEF, League of  
 6       Women Voters, a representative from the Texas Democratic  
 7       Party, a group of college kids, but I can't recall what  
 8       school they were with, that I know I met with. I  
 9       remember meeting with the Catholic Diocese. I think  
 10      that's the group, and voter ID was one of the topics  
 11      that they talked about and didn't support it. That's  
 12      tall I can think of.

13     Q. How did people get meetings with you about  
 14     different legislation?

15     A. If they have my direct line, they just call me  
 16     direct. Otherwise, they'll call the main line in our  
 17     policy office and they'll transfer them directly to us  
 18     so we can set up an appointment.

19     Q. Do you generally meet in person or on the phone  
 20     for these types of meetings?

21     A. Generally in person.

22     Q. Do you ever say no to a meeting?

23     A. I've never said no.

24     Q. So turning back to 2011, you said you met with  
 25     Skipper Wallace in 2011. What was the content of your

150

1       meeting in 2011?

2     A. I can't remember whether or not I met with him  
 3     in 2011.

4     Q. Okay. Well, you said you did remember him  
 5     testifying though at the select committee hearing?

6     A. Yes.

7     Q. What did he say during that hearing?

8     A. I can't recall specifics. I know he supported  
 9     the legislation. Was very adamant about supporting the  
 10    legislation. If I recall correctly, I think he talked  
 11    about other activities for which one needs an ID,  
 12    boarding a plane, getting government benefits. That's  
 13    pretty much all I can recall.

14     Q. Have you heard that argument generally in the  
 15     context of voter identification?

16     MR. SWEETEN: Don't answer the question.

17     Q. I guess I could say as part of the public -- as  
 18     part of the public record, have you heard people advance  
 19     that argument that you need identification to do things  
 20     like board a plane or obtain government benefits?

21     A. Yes. It's come up in testimony.

22     Q. Do you have a fundamental right to board a  
 23     plane?

24     A. No.

25     Q. Do you have a fundamental right to obtain

151

1       public benefits?

2     MR. SWEETEN: You are asking her as she's  
 3     sitting here? I mean to some extent you could be asking  
 4     her to reveal her thoughts and mental impressions about  
 5     bills, so if you can separate -- if these questions  
 6     would require you to do that, do not reveal that  
 7     information. To the extent that you can answer as  
 8     you're sitting here and if not impact those, then you  
 9     can answer. Does that make sense?

10     A. M-hm.

11     Q. Okay.

12     A. I've never really thought about it. Well, the  
 13     right to government benefits --

14     Q. I'll withdraw that particular question. Do you  
 15     have -- Do you have a fundamental right to vote?

16     MR. SWEETEN: Same objection.

17     A. Yes.

18     Q. Do you have a fundamental right to rent a  
 19     video?

20     MR. SWEETEN: Same instruction.

21     A. No.

22     Q. Do you -- Do you have a fundamental right to  
 23     pick up prescriptions at the pharmacy?

24     A. No.

25     MR. SWEETEN: Same instruction.

152

1     Q. Okay. Turning back to this list of people who  
 2     testified at the March 1st, 2011 hearing, do you  
 3     remember with any specificity what any of these other  
 4     witnesses testified to rather than just for or against  
 5     as they're listed on the page?

6     A. If I recall correctly, I remember testimony, I  
 7     think, by whoever was representing the King Street  
 8     Patriots, that they had witnessed someone voting twice  
 9     or they thought the person looked -- the same person  
 10    voted twice. They, I think, had a distinctive feature.

11     Q. Is that the same person that you mentioned  
 12     earlier with the tattoos who came in and voted twice or  
 13     is that a different --

14     A. That's a different one.

15     Q. It was a different person?

16     A. M-hm.

17     Q. So it was not just a tattoo that they knew that  
 18     the person had voted twice?

19     A. I want to say that it was strange hair color,  
 20     purple or green or something, that caught their eye.

21     Q. Do you remember if that was Ms. Engelbrecht who  
 22     testified for this -- the King Street Patriots,  
 23     Catherine Engelbrecht?

24     A. I don't recall her name.

25     Q. Have you met her before?



<p style="text-align: center;">153</p> <p>1 A. Not that I know of.      2 Q. Do you know if the person who testified for the      3 King Street Patriots testified that they had witnessed      4 somebody vote twice ever referred that incident to law      5 enforcement?      6 A. I don't know.      7 Q. Do you remember Ann McGeehan testifying at the      8 hearing?      9 A. Yes.      10 Q. You do? Do you remember what she testified      11 about?      12 A. I think she talked about the Secretary of      13 State's Office -- their role in elections and election      14 education, that type of thing.      15 Q. And I should have asked you this. Is      16 Ms. McGeehan from the Secretary of State's office?      17 A. Yes.      18 Q. Is she the direct -- former director of the      19 elections division?      20 A. Yes.      21 Q. Was she the director at the time that she      22 testified?      23 A. To my recollection, yes, and I guess I thought      24 since we are going through this, a couple more people      25 that I met with regarding the bill. I don't know -- Did</p>	<p style="text-align: center;">155</p> <p>1 A. Yes.      2 Q. And so I guess I should have asked you who you      3 had communications with about SB14, legislators and      4 staff members, without revealing the content of the      5 conversations.      6 A. Okay.      7 Q. So can you give that list now?      8 A. Yes. It's pretty much the same, except -- in,      9 actually, 2009 and 2011 I met with Ann McGeehan and John      10 Sepehri. I met with Michael Scofield, and I think that      11 was 2009.      12 Q. But not 2011?      13 A. Not that I recall.      14 Q. So Ann McGeehan, John Sepehri. Is John Sepehri      15 also from the Secretary of State's office?      16 A. Yes.      17 Q. And Mr. Scofield is where?      18 A. From the governor's office.      19 Q. And you said you met with Ms. McGeehan and both      20 Mr. Sepehri in both 2009 and 2011?      21 A. Yes.      22 Q. But Mr. Scofield just in 2009.      23 A. I think that's right.      24 Q. Who else did you meet with about SB14 or      25 communicate with in SB14 in 2011?</p>
<p style="text-align: center;">154</p> <p>1 you want me to tell you those names or not?      2 Q. Sure.      3 MR. SWEETEN: Are we talking about the      4 2011 bill or the 2009 bill? I just want to make sure.      5 Q. Are you saying people who testified or people      6 you met with?      7 A. People that met with staff and staff that I      8 talked to. You said if I think of anyone else to let      9 you know.      10 MR. SWEETEN: Are we moving back to the      11 earlier statement or if this was recent questioning?      12 THE WITNESS: Sorry.      13 MR. SWEETEN: These are people that you      14 remember talking to?      15 A. That I remember talking to with regard to      16 Senate Bill 14, but when we were talking about -- when      17 you were asking who all I met with was maybe about the      18 2009 bill.      19 Q. Yes.      20 A. Okay. Sorry. I just thought of some names.      21 Q. Why don't we go through that? Just so it's      22 clear, I'd think you had given a list of people that you      23 had communications with, and those were senator -- I'm      24 sorry -- representatives and there are staff members      25 about SB362?</p>	<p style="text-align: center;">156</p> <p>1 A. It's pretty much the same list of people that I      2 gave earlier. I don't think there's anyone -- I don't      3 remember.      4 Q. I have to read that list as I have it, and you      5 can tell me if it's the same.      6 A. Yes.      7 Q. You said Steven Schar, who is the committee      8 clerk for Todd Smith, Travis Raymond, Smith staffer,      9 Representative Smith himself, Dewayne Bohac,      10 Representative Bonnen, Representative Anchia, Mr. Hebert      11 from the lieutenant governor's office, Mr. Ancira in      12 your office, and Speaker Straus.      13 A. M-hm. So the list -- Yeah, it will be similar      14 minus talking Todd Smith. I didn't talk with him in      15 2011. I did talk with Patricia Harless and her staffer.      16 I think his name is Colby maybe.      17 Q. Beuck?      18 A. Yes.      19 Q. You said you didn't talk to Mr. Smith. Was he      20 still on the elections committee in 2011?      21 A. I don't believe he was.      22 Q. Who else?      23 A. So I think that's -- including that -- the      24 names I listed, the same people, I think that's it.      25 Q. And how often did -- Well, okay. I guess then</p>



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<p style="text-align: center;">157</p> <p>1 though my question -- You said you spoke with Steven      2 Schar --      3 A. Yes.      4 Q. -- and Travis Raymond in 2011.      5 A. Not Travis in 2011. He was no longer at the      6 capitol.      7 Q. Steven Schar, if he was the clerk for Smith,      8 did you still talk to him in 2011?      9 A. Yes. He clerked the select committee for      10 Bonnen in 2011.      11 Q. And so did he stay with the committee even      12 though the chairs changed?      13 A. Yes.      14 Q. Were there any other Bonnen staff members that      15 you communicated with about SB14?      16 A. Not that I can think of. I think Steven was      17 the only one.      18 Q. So then you were talking about Representative      19 Harless and Mr. Beuck. Were there others that you were      20 talking with in 2011?      21 A. I think that's it.      22 Q. Is there anyone else from the lieutenant      23 governor's office that you talked with?      24 A. Not that I can think of.      25 Q. You said in 2009 you had had communications</p>	<p style="text-align: center;">159</p> <p>1 the fiscal note of the bill.      2 Q. And do you know if she also testified during      3 the hearing about the number of voters from that      4 matching?      5 A. I don't recall.      6 MS. BERKOWER: We've been going for a      7 little bit of time. Do you want to take a break?      8 MR. SWEETEN: Sure.      9 (Recess from 2:47 p.m. to 3:03 p.m.)      10 Q. (BY MS. BERKOWER) Okay. So I think before we      11 took the break, we were talking about Ms. McGeehan's      12 testimony before the select committee on March 1st,      13 2011. Do you remember that?      14 A. Yes.      15 Q. Okay. Do you remember -- You said Ms. McGeehan      16 had testified in part that day about the fiscal note for      17 SB14? Is that accurate, in your memory?      18 A. Yes.      19 Q. Do you remember if Ms. McGeehan also talked      20 about the number of voters who may not have DPS issued      21 identification under SB14?      22 A. I don't remember.      23 (Exhibit 646 marked.)      24 Q. Okay. So I have what will be Exhibit 646,      25 please. I think this is a pretty long document, but if</p>
<p style="text-align: center;">158</p> <p>1 with Mr. Scofield of the governor's office. Was there      2 anyone from the governor's office that you communicated      3 with in 2011 about SB14?      4 A. I don't remember who this person was.      5 Q. Is it possible it was Mr. Armbrister?      6 A. If it was, I don't remember talking to him,      7 but -- I know him, but I don't recall talking to him      8 about Senate Bill 14.      9 MR. SWEETEN: He's down the hall if you      10 want to --      11 THE WITNESS: I saw him this morning.      12 Q. Okay. So we are talking about Ms. McGeehan's      13 testimony and you said -- you were describing what she      14 had testified, and you said -- I actually don't remember      15 what you said. I'm sorry to make you repeat yourself.      16 A. I think I said generally she talked about the      17 Secretary of State's office's role in elections and      18 election education.      19 Q. Right. Did she also talk about the cost of the      20 free identification that was being proposed for      21 inclusion in SB14; do you remember?      22 MR. SWEETEN: On the public record you can      23 testify.      24 MS. BERKOWER: Yeah, her testimony.      25 A. Her testimony? Yes, I think she talked about</p>	<p style="text-align: center;">160</p> <p>1 you want to just turn your attention to what starts      2 on -- Well, turn your attention to Page 299 and just      3 review that page and the next page or two and see if      4 that refreshes your recollection about her testimony.      5 Let me know when you are done. You've reviewed it?      6 A. Yes.      7 Q. Do you know what this document is?      8 A. It looks like a transcript of testimony from      9 the March 1st hearing.      10 Q. The hearing before the select committee on      11 voter identification, voter fraud?      12 A. Yes.      13 Q. And is the part I directed -- the part of the      14 testimony -- the part of the hearing I directed you to      15 an exchange between Mrs. McGeehan who is testifying and      16 Representative Harless?      17 A. Yes.      18 Q. And during that exchange is there a      19 conversation about how many voters may not have DPS      20 issued identification as required under SB14?      21 A. In the text of the document, yes.      22 Q. And is there an estimate that the number of      23 people may be as high as 690,000 people?      24 MR. SWEETEN: Don't interpret the words.      25 You can testify about what's on the page.</p>



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<p style="text-align: center;">161</p> <p>1 A. Yes.</p> <p>2 Q. Okay. To your knowledge did the -- did the</p> <p>3 Secretary of State's Office ever provide any information</p> <p>4 to the legislature to determine how many of those</p> <p>5 690,000 voters were minority voters?</p> <p>6 MR. SWEETEN: You're asking about was an</p> <p>7 analysis provided to the legislature from Ann McGeehan?</p> <p>8 Is that what you said?</p> <p>9 MS. BERKOWER: From the Secretary of</p> <p>10 State's Office.</p> <p>11 MR. SWEETEN: I'm going to object. It's</p> <p>12 been asked three other times and don't reveal any</p> <p>13 substance of the communication, if any, but you can</p> <p>14 testify the last time though -- you can testify that an</p> <p>15 analysis was provided.</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. Are you aware of any existing document</p> <p>18 or report in the public record that identifies how many</p> <p>19 Texas voters are in possession of a concealed handgun</p> <p>20 license?</p> <p>21 A. I don't recall.</p> <p>22 Q. Are you aware of any existing document or</p> <p>23 report in the public record that identifies how many</p> <p>24 minority voters are in possession of a concealed handgun</p> <p>25 license?</p>	<p style="text-align: center;">163</p> <p>1 these questions in part because it would reflect</p> <p>2 underlying facts that may have been provided rather</p> <p>3 than --</p> <p>4 MR. SWEETEN: I think your first line of</p> <p>5 questions before you went into do you know may have done</p> <p>6 that, and this section is now -- could invade the</p> <p>7 legislative privilege. I ask you to be mindful of the</p> <p>8 privilege.</p> <p>9 Q. (BY MS. BERKOWER) Okay. Do you know how many</p> <p>10 Texas voters are in possession of a passport?</p> <p>11 MR. SWEETEN: Same instruction.</p> <p>12 A. I don't.</p> <p>13 Q. Do you know how many minorities voters are in</p> <p>14 possession of a passport?</p> <p>15 MR. SWEETEN: The same instruction. Don't</p> <p>16 reveal matters of a legislative privilege.</p> <p>17 A. I don't know.</p> <p>18 Q. Do you know how many Texas voters are in</p> <p>19 possession of a citizenship certificate with a</p> <p>20 photograph?</p> <p>21 MR. SWEETEN: Same instruction on</p> <p>22 legislative privilege.</p> <p>23 A. I don't know.</p> <p>24 Q. Do you know -- I'm not -- Never mind. Getting</p> <p>25 back to the list of witnesses who testified on the -- in</p>
<p style="text-align: center;">162</p> <p>1 A. I don't recall.</p> <p>2 Q. Are you aware of any existing document or</p> <p>3 report that identified -- in the public record that</p> <p>4 identifies how many Texas voters are in possession of a</p> <p>5 US military card?</p> <p>6 A. I don't recall.</p> <p>7 Q. Are you aware of any existing document or</p> <p>8 report that identifies how many Texas -- Sorry. I'm</p> <p>9 going to start that question over. Sorry.</p> <p>10 Do you know how many Texas voters are in</p> <p>11 possession of a US military card?</p> <p>12 A. I don't.</p> <p>13 Q. Do you know how many minority voters are in</p> <p>14 possession of a US military card?</p> <p>15 A. I don't.</p> <p>16 Q. Do you know how many --</p> <p>17 MR. SWEETEN: I want to make sure the</p> <p>18 instruction's clear. I don't want you to reveal any</p> <p>19 matters that would be related to your mental</p> <p>20 impressions, thought processes, investigations regarding</p> <p>21 the bill as you're answering these, so don't answer if</p> <p>22 you'd be revealing any legislative privilege that you</p> <p>23 don't know, but I want to make sure that the</p> <p>24 legislative privilege instruction is clear.</p> <p>25 MS. BERKOWER: To be clear, I'm asking</p>	<p style="text-align: center;">164</p> <p>1 the March 1st, 2011 hearing, were there any other</p> <p>2 witnesses whose testimony you remember with any</p> <p>3 specificity that we haven't already discussed?</p> <p>4 A. No one else comes to mind.</p> <p>5 Q. In the time that the legislature has considered</p> <p>6 voter fraud, do you recall any evidence entered into the</p> <p>7 public record concerning mail-in ballot fraud?</p> <p>8 A. I know the topic has been discussed in</p> <p>9 hearings, but I don't know particular specifics.</p> <p>10 Q. Do you remember anybody testifying that</p> <p>11 mail-in -- testifying as part of the public record that</p> <p>12 mail-in ballot fraud is more common than in-person</p> <p>13 ballot fraud?</p> <p>14 A. Yes.</p> <p>15 Q. Does SB14 address mail-in ballot fraud?</p> <p>16 A. To my recollection it did not.</p> <p>17 Q. Did SB362 address mail-in ballot fraud?</p> <p>18 MR. SWEETEN: Don't provide your thoughts,</p> <p>19 mental impressions or analysis about legislative</p> <p>20 matters, okay? That means your mental impressions,</p> <p>21 opinions about legislation, what it would or wouldn't</p> <p>22 address would be within the legislative privilege.</p> <p>23 MS. BERKOWER: Maybe I can rephrase the</p> <p>24 question. I think we were looking at SB362 -- a copy of</p> <p>25 it earlier today, so you have the text of that bill.</p>



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<p style="text-align: center;">165</p> <p>1      Based on the text of the exhibit that you had, did that      2      bill address mail-in voter fraud? Is that acceptable,      3      Patrick?</p> <p>4            MR. SWEETEN: From the text that's in      5      front of her, I'll let her look and see if it      6      addresses --</p> <p>7            A. We're on 362 now?      8            Q. 362.      9            A. From the text in front of me, I do not see the      10     language addressing mail-in ballot fraud.</p> <p>11    MS. BERKOWER: And I have this exhibit      12 which has been previously marked as Exhibit 5 in another      13 deposition. Can have we this marked as 5 here, please?</p> <p>14    MR. SWEETEN: I thought we already gave      15 her 14.</p> <p>16    Q. (BY MS. BERKOWER) I gave her as filed. I think      17 if you turn to the last page, you might have a sense of      18 what this is. Do you know what this is?</p> <p>19    A. This looks like the final version of Senate      20 Bill 14 signed by the governor.</p> <p>21    Q. If you -- If you can take a minute to review      22 this. If you could tell me, does the text of that bill      23 address mail-in ballot fraud?</p> <p>24    A. The text in front of me, I don't see provisions      25 related to mail-in ballots.</p>	<p style="text-align: center;">167</p> <p>1      privilege, don't do that.      2            A. Can you repeat it? Sorry.      3            Q. Sure. I was asking if -- You said you      4 remembered there was testimony about mail-in ballot      5 fraud and that the bill, I think you said, should      6 address mail-in ballot fraud. Is that an accurate      7 summary of your testimony?      8            A. Yes.      9            Q. With regard to the person who made those      10 arguments on the public record, did they ever argue that      11 the bill should address mail-in ballot fraud because      12 it's a bigger problem than in-person ballot fraud?      13            A. I don't know specifically if that statement was      14 said.      15            Q. Was an argument to that effect made on the      16 public record?      17            A. Yes.      18            Q. But you don't -- you don't remember who made      19 it?      20            A. I don't.      21            Q. Did you receive any constituent correspondence      22 that made that argument against the bill?      23            A. I don't recall.      24            Q. Turning back just for a minute to the interim      25 charge -- the interim charge committee report -- I'm</p>
<p style="text-align: center;">166</p> <p>1      Q. Do you remember if there was any discussion on      2 the public record at the time that these bills -- and      3 I'm referring to SB14 and 362 -- were being debated by      4 the legislation that the bill should address mail-in      5 ballot fraud?</p> <p>6            MR. SWEETEN: You can testify as to      7 matters of the public record in answering the question.      8            A. I believe that topic was discussed.      9            Q. Who raised that issue, if you remember?      10          A. I don't recall.      11          Q. What were the arguments that that person made?      12          MR. SWEETEN: You can refer to the record,      13 but don't reveal legislative privilege.      14          A. I'd have to look back at the record.      15          Q. Do you remember if that argument was to the      16 effect of mail-in ballot fraud is a bigger problem than      17 in-person ballot fraud, so legislation addressing voter      18 fraud should address mail-in ballot fraud just as a      19 matter of what you remember from testimony on the public      20 record?</p> <p>21          MR. SWEETEN: Yeah. Don't reveal your      22 thought processes as you are assessing the public      23 record. So if that was specifically said as phrased,      24 you can answer, if it was on the public record. If it's      25 requiring you to reveal matters that are subject to the</p>	<p style="text-align: center;">168</p> <p>1      sorry. I know you have a lots of documents in front of      2 you at this point. Can I find it?      3            A. Yes.      4            Q. In turning to Page 26 of the document, which      5 listed the interim charge given to the committee, was      6 the committee charge limited only to an investigation of      7 in-person voter fraud?      8            MR. SWEETEN: You can answer based on      9 what's on the text of the report.      10          A. The charges says, "Examine the prevalence of      11 fraud in Texas elections."      12          Q. Does that text specifically specify in-person      13 fraud and not mail-in fraud?      14          A. As I read it, it does not specify any      15 particular type of fraud.      16          Q. Right. And it doesn't exclude any type of      17 fraud?      18          A. Right.      19          Q. Turning to the last page, I think, for the      20 Recommendation section, I don't remember which page it      21 is exactly. It's towards the end. And based on that      22 text, do you see any recommendation to the legislature      23 to pass a bill that addresses mail-in ballot fraud?      24          MR. SWEETEN: I'm reading about recusal on      25 my recommendation. Judge's recusal.</p>



<p style="text-align: center;">169</p> <p>1        MS. BERKOWER: Okay.</p> <p>2        A. Here we go.</p> <p>3        Q. Sorry.</p> <p>4        A. I found it. Yeah. I started reading that too.</p> <p>5        MS. BERKOWER: I'm sorry. I don't where</p> <p>6        my copy went, so I know it's towards the end.</p> <p>7        MR. PHILLIPS: Do you need this copy back?</p> <p>8        Q. I only have this one question about it. It's</p> <p>9        okay.</p> <p>10      A. Can you repeat the question? I'm sorry.</p> <p>11      Q. Yeah. Based on the text of this</p> <p>12     recommendation, do you see anything in there that</p> <p>13     recommends that the legislature pass legislation</p> <p>14     concerning mail-in ballot fraud?</p> <p>15      A. Based on this text, I do not.</p> <p>16      Q. Okay. Were you present for the House floor</p> <p>17     debates on SB14?</p> <p>18      A. Yes.</p> <p>19      Q. Were you present when amendments were offered</p> <p>20     and voted on for the bill?</p> <p>21      A. Yes.</p> <p>22      Q. Do you remember that the debate --</p> <p>23      A. The debate on the bill, yes.</p> <p>24      Q. So do you remember that amendments were opposed</p> <p>25     and debated on and there were a number of amendments?</p>	<p style="text-align: center;">171</p> <p>1        Q. And he said he had attended a roundtable at</p> <p>2        which groups raised -- members of minority groups raised</p> <p>3        that point with him?</p> <p>4        A. Yes.</p> <p>5        Q. Do you know what roundtable he was referring</p> <p>6        to?</p> <p>7        A. I do not.</p> <p>8        Q. Have you ever attended a roundtable event with</p> <p>9        him?</p> <p>10      A. No.</p> <p>11      Q. Did you ever hear any reports about that</p> <p>12     roundtable event?</p> <p>13      A. That I can recall.</p> <p>14      Q. Turning to Page 89 of the transcript, please.</p> <p>15     Do you see the speaker spoke on the record on that as</p> <p>16     recorded in the transcript on Page 89?</p> <p>17      A. Yes.</p> <p>18      Q. Does it start on the previous page?</p> <p>19      A. Yes.</p> <p>20      Q. Can you review that -- that part of the record?</p> <p>21      A. Yes.</p> <p>22      Q. Okay. Was this exchange with Speaker Straus</p> <p>23     and was he speaking with Representative Bonnen on the</p> <p>24     record there?</p> <p>25      MR. SWEETEN: You are asking on Pages 88</p>
<p style="text-align: center;">170</p> <p>1        A. Yes.</p> <p>2        Q. Okay. So this exhibit -- actually, only have</p> <p>3        one copy of it, but I'm happy to give it to you because</p> <p>4        I think I know what we're going to be talking about, and</p> <p>5        it was previously marked. Did you make a copy? It was</p> <p>6        previously marked in a different deposition, but maybe</p> <p>7        as Rodriguez Exhibit 36. So I guess we can mark that</p> <p>8        again here.</p> <p>9        So I have Exhibit 36, and, I'm sorry, I</p> <p>10      only have the one copy. If you don't mind sharing,</p> <p>11      Patrick, with her. Do you know what this is?</p> <p>12      A. It looks like a transcript of the floor debate</p> <p>13     on Senate Bill 14.</p> <p>14      Q. What's the date on that?</p> <p>15      A. March 23rd, 2011.</p> <p>16      Q. Can you turn to Page 38, please? Does Speaker</p> <p>17     Straus speak on the record on Page 38?</p> <p>18      A. Yes.</p> <p>19      Q. Can you review what he said? Let me know when</p> <p>20     you are done. Have you read it?</p> <p>21      A. Yes.</p> <p>22      Q. Do you see that he made statements concerning</p> <p>23     the fact that "many minority groups protected under the</p> <p>24     Voting Rights Act would like to show photo ID to vote"?</p> <p>25      A. Yes.</p>	<p style="text-align: center;">172</p> <p>1        and 89?</p> <p>2        A. Yes.</p> <p>3        Q. Yes.</p> <p>4        A. Yes.</p> <p>5        Q. Were they discussing an amendment that</p> <p>6        Representative Bonnen had proposed to SB14?</p> <p>7        MR. SWEETEN: Don't interpret the words.</p> <p>8        Q. Just based on what's in the transcript?</p> <p>9        A. Yes.</p> <p>10      Q. Was the amendment to eliminate the over 70</p> <p>11     exemption that we discussed in the certification of SB14</p> <p>12     as filed in the Senate?</p> <p>13      MR. SWEETEN: Are you asking was the</p> <p>14     subject matter of the discussion the over 70 amendment?</p> <p>15      MS. BERKOWER: Yes.</p> <p>16      MR. SWEETEN: Okay.</p> <p>17      A. I don't see any discussion about what the</p> <p>18     amendment is. I just see that.</p> <p>19      Q. Well, I think you could go back a page or two</p> <p>20     and that will help. You can review the few pages before</p> <p>21     that.</p> <p>22      A. Okay. Okay. Yes, now I see it.</p> <p>23      Q. So were they discussing an amendment to</p> <p>24     eliminate the over 70 exemption?</p> <p>25      A. According to this document, yes.</p>



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<p style="text-align: center;">173</p> <p>1       Q. Okay. Did Speaker Straus state that he was not 2       going to support the amendment?</p> <p>3            MR. SWEETEN: Don't reveal matters of 4            privilege.</p> <p>5        Q. Just as far as that transcript goes.</p> <p>6        A. Can you repeat the question?</p> <p>7        Q. Did Speaker Straus say he would not support the 8        amendment?</p> <p>9        A. According to this, yes.</p> <p>10      Q. Did he give a reason as to why he was not 11       supporting the amendment as reflected in that 12       transcript?</p> <p>13      A. Yes.</p> <p>14      Q. Was the reason that Texas already allows people 15       over 65 to get mail-in ballots and there's no signatures 16       required -- sorry -- no photo identification for those 17       ballots?</p> <p>18      MR. SWEETEN: Don't provide testimony on 19       his reason. You can testify about what's on the text of 20       the page.</p> <p>21      A. According to the text, yes.</p> <p>22      Q. Did he also say that voter -- the voter 23       identification bill should be striking a balance between 24       securing each vote but also securing access to the 25       franchise?</p>	<p style="text-align: center;">175</p> <p>1       claimed -- that they testified would prevent the 2       disenfranchisement of minorities?</p> <p>3            MR. SWEETEN: Objection. Calls for 4            legislative privilege. Instruct not to answer.</p> <p>5        Q. Okay. Maybe I can rephrase it. Did any 6        legislator testify on the public record that an 7        amendment he proposed would prevent the 8        disenfranchisement of minorities?</p> <p>9            MR. SWEETEN: You can testify as rephrased 10       as to matters on the public record.</p> <p>11      A. That specific statement on that topic, yes.</p> <p>12      Q. Do you remember which amendments that testimony 13       referred to?</p> <p>14      A. I don't recall the particularly which 15       amendments.</p> <p>16      Q. Do you remember if any of those amendments 17       ultimately were included in the final bill?</p> <p>18      A. I don't.</p> <p>19            MR. SWEETEN: Objection. Foundation to 20       the question.</p> <p>21      Q. What was the general legislative purpose of 22       SB14?</p> <p>23      A. To deter voter fraud.</p> <p>24      Q. Was any of -- was there any -- Was part of the 25       general legislative purpose of SB14 to prevent</p>
<p style="text-align: center;">174</p> <p>1       A. According to the text, yes.</p> <p>2       Q. Do you know if there were any other amendments 3       to SB14 that Speaker Straus publicly said on the record 4       he would not support?</p> <p>5       A. I don't recall.</p> <p>6       Q. Do you know if there were any other instances 7       on the public record where Speaker Straus expressed a 8       concern to strike a balance between securing each vote, 9       but also securing access to the franchise?</p> <p>10      MR. SWEETEN: You can testify as to the 11       matter of public record. Don't reveal matters of 12       privilege.</p> <p>13      A. I don't recall.</p> <p>14      Q. During the legislative debates on SB14, did -- 15       were there concerns raised in the public records that 16       the bill would disenfranchise minority voters?</p> <p>17      MR. SWEETEN: You can testify if something 18       was expressed on the public record. Don't interpret 19       what was said on the record to the extent that would 20       reveal your mental impressions and opinions. You can 21       answer.</p> <p>22      A. On the public record, yes.</p> <p>23      Q. Did any legislators take action on the public 24       record to prevent the disenfranchisement of minorities 25       as they viewed it by proposing amendments that they</p>	<p style="text-align: center;">176</p> <p>1       noncitizens from voting?</p> <p>2       A. No.</p> <p>3       Q. After SB14 was enacted, did you have any 4       conversations about the bill with other staff members 5       about the bill for Speaker Straus? Sorry.</p> <p>6       A. Did I have conversations with other staffers?</p> <p>7       Q. Yes.</p> <p>8            MR. SWEETEN: She's saying after passage.</p> <p>9       A. After passage?</p> <p>10      Q. Yeah.</p> <p>11      A. I don't recall any specific conversations.</p> <p>12      Q. Did you have any communications with Ashley 13       Kaden or Allison Winney after the bill's passage or in 14       passage? Yeah.</p> <p>15      A. Yes.</p> <p>16      Q. What were those communications?</p> <p>17            MR. SWEETEN: The substance? Is that what 18       you are asking or in what form? I'm not sure what 19       you're asking.</p> <p>20      Q. Well, let's start with what types of 21       communications were those.</p> <p>22      A. Do you mean phone, email, person to person?</p> <p>23      Q. Yeah.</p> <p>24      A. Email and person to person.</p> <p>25      Q. What was the subject matter of those</p>



<p style="text-align: center;">177</p> <p>1     communications?</p> <p>2            MR. SWEETEN: You can give a general</p> <p>3     subject matter if revealing the subject matter would</p> <p>4     require you to reveal your mental impressions, thoughts,</p> <p>5     opinions, motivations about the legislative process or</p> <p>6     reveal communications you had with any of the protected</p> <p>7     staff members, legislators, state agencies or Texas</p> <p>8     legislative council. You can give a general description</p> <p>9     if it would reveal legislatively privileged matters. If</p> <p>10    it would not reveal legislatively privileged matters,</p> <p>11    you can tell her the subject matter of the conversation.</p> <p>12    Do you understand my instruction?</p> <p>13    A. Yes. The nature of those conversations were</p> <p>14    generally about the status of preclearance of Senate</p> <p>15    Bill 14.</p> <p>16    Q. Okay. And what were you discussing with them</p> <p>17    about preclearance?</p> <p>18    MR. SWEETEN: Again, if revealing the</p> <p>19    substance was conversation would go to your thoughts,</p> <p>20    mental impressions, motivations about the legislation,</p> <p>21    don't answer the question. If it would not, you can</p> <p>22    answer the question.</p> <p>23    A. Generally, the conversations were about the</p> <p>24    timeline and sequence of events for preclearance.</p> <p>25    Q. Were any of the -- Did you have any</p>	<p style="text-align: center;">179</p> <p>1     conversations with other people in the office other than</p> <p>2     legal counsel. I think there's some date issues about</p> <p>3     common interest privilege.</p> <p>4            MR. SWEETEN: Tell me what your</p> <p>5     concerns -- what you're thinking about.</p> <p>6            MS. BERKOWER: I'd think we're -- I think</p> <p>7     that there were some conversations that she had that</p> <p>8     were referenced in the privilege log about the lawsuit</p> <p>9     that did not appear to be conversations with legal</p> <p>10    counsel and that's what I'm trying to ask about.</p> <p>11    MR. PHILLIPS: Or either legal counsel nor</p> <p>12    somebody in the legislative body -- are you saying that</p> <p>13    the -- You're asserting the legislative privilege</p> <p>14    wouldn't apply.</p> <p>15    MS. BERKOWER: Right. Because it was</p> <p>16    after the enactment of the bill.</p> <p>17    MR. PHILLIPS: Right. And the governor's</p> <p>18    veto appeared.</p> <p>19    MR. SWEETEN: So here's what I will</p> <p>20    instructs you that you can -- you can -- You can reveal</p> <p>21    those communications as long as this wasn't as part of</p> <p>22    giving legal advice, in other words, an attorney was</p> <p>23    present. You can reveal the information as long as it's</p> <p>24    not -- that this would not relate to your thoughts and</p> <p>25    mental impressions about Senate Bill 14, okay? You can</p>
<p style="text-align: center;">178</p> <p>1     post-enactment conversation with the other people in</p> <p>2     your office about this lawsuit?</p> <p>3        A. Yes.</p> <p>4        Q. Were there any conversations aside from those</p> <p>5     with legal counsel that you had about this lawsuit?</p> <p>6            MR. SWEETEN: You can answer if there was</p> <p>7     a communication about the lawsuit.</p> <p>8        A. Yes.</p> <p>9        Q. And to be clear, I'm asking anything that</p> <p>10    wasn't with legal counsel at this point to avoid</p> <p>11    stepping on any attorney-client privilege.</p> <p>12    MR. SWEETEN: As you know, we represent</p> <p>13    the speaker and we represent Ms. Fowler, and there's a</p> <p>14    common interest privilege with respect to our</p> <p>15    representation of them, so to the extent you reveal any</p> <p>16    of those -- any communications that you had with your</p> <p>17    attorneys, don't -- don't reveal that.</p> <p>18    MS. BERKOWER: Okay.</p> <p>19    MR. SWEETEN: Do you understand my</p> <p>20    instruction?</p> <p>21        A. Yes.</p> <p>22        MS. BERKOWER: Okay. I just -- I'm sorry.</p> <p>23    I just want to make sure I understand in what context</p> <p>24    you're invoking a common interest alleged between them.</p> <p>25    I'm seeking to ask if she has discussed -- had</p>	<p style="text-align: center;">180</p> <p>1     reveal the communication. I'm going to allow her to</p> <p>2     answer the question.</p> <p>3        A. What was the question?</p> <p>4        Q. (BY MS. BERKOWER) It was about conversations</p> <p>5     with people in -- or communications of any type really</p> <p>6     with people in your office about this lawsuit aside from</p> <p>7     conversations with legal counsel and subject to the</p> <p>8     instruction that Patrick just gave you.</p> <p>9        A. Did I have any communications?</p> <p>10      Q. I mean, I guess I can be more specific. I'm</p> <p>11      trying to ask if I know of some, but I think --</p> <p>12      MR. PHILLIPS: If you've got them on the</p> <p>13      log, maybe telling her the dates and who they were with.</p> <p>14      Q. Sure. I know that there were some</p> <p>15      communications that were -- you were involved with about</p> <p>16      news articles about this lawsuit. Does that refresh</p> <p>17      your memory at all?</p> <p>18        A. Sure. Yeah.</p> <p>19        Q. What were those discussions?</p> <p>20        A. I think if I saw anything in the news, I would</p> <p>21      pass it along via email to co-workers as just a FYI.</p> <p>22        Q. And was that the extent of it, just forwarding</p> <p>23      news articles? Was there other communication there as</p> <p>24      well about the lawsuit?</p> <p>25        A. If -- What I recall is just sort of a timeline</p>



<p style="text-align: center;">181</p> <p>1      or an update of where the lawsuit was, where -- what 2      dates certain things might occur.</p> <p>3      Q. Okay. Do you remember any other types of 4      communication about the lawsuit that don't implicate 5      conversations with counsel?</p> <p>6      A. I'm not recalling any.</p> <p>7      Q. Okay. Without revealing the contents of your 8      conversation, have you had any conversations after about 9      this lawsuit with Speaker Straus?</p> <p>10     A. Yes.</p> <p>11     Q. When did that occur?</p> <p>12     A. Within the past few months.</p> <p>13     Q. I think the lawsuit was filed in the past few 14     months. Can you be more specific?</p> <p>15     A. Yes. Any updates just on preclearance.</p> <p>16     Q. Okay. Have you ever drafted a document called 17     a Week in Review that included a discussion -- You're 18     laughing. Maybe you've drafted a lot of Week in 19     Reviews.</p> <p>20     A. Yes.</p> <p>21     Q. Okay. Have you ever -- Did you ever draft a 22     week in review that included discussion of this lawsuit?</p> <p>23     A. Probably.</p> <p>24     Q. Do you remember what it said?</p> <p>25     A. I don't.</p>	<p style="text-align: center;">183</p> <p>1      A. I don't remember the specifics, but -- I don't 2      remember the specifics.</p> <p>3      Q. What was the -- What was the general topic?</p> <p>4      A. The general topic was preclearance of Senate 5      Bill 14.</p> <p>6      Q. And why were you calling him?</p> <p>7      A. I guess to let help know Jesse stopped by to 8      let me know that a ruling would be released soon and to 9      make sure he was in the loop.</p> <p>10     Q. Who's -- And who's Jesse? I don't remember if 11     you said that already.</p> <p>12     A. He's our general counsel or he's now our chief 13     the staff.</p> <p>14     Q. Is that maybe a misspelling of his name?</p> <p>15     A. Probably.</p> <p>16     Q. That would be a different Jesse.</p> <p>17     A. Yes. I have a friend that's a girl named 18     Jessi, so --</p> <p>19     Q. Okay. After the passage and enactment of SB14, 20     did you ever draft talking points or participate in the 21     drafting points about the bill for the speaker?</p> <p>22     A. Yes.</p> <p>23     Q. When did you do that?</p> <p>24     A. I don't remember specific dates.</p> <p>25     Q. How often do you say you would have done that?</p>
<p style="text-align: center;">182</p> <p>1      (Exhibit 647 marked.)</p> <p>2      Q. Okay. I'll show you what's going to be marked 3      as Exhibit 647, please. Do you know what this document 4      is?</p> <p>5      A. Yes.</p> <p>6      Q. What is it?</p> <p>7      A. Is it an email I sent to John Sepehri -- Oh, 8      no, wait. Yeah. Okay. So it's an email I guess I sent 9      to John letting him know that our general counsel, 10     Jesse, had stopped by to let me know the ruling would be 11     announced on Senate Bill 14.</p> <p>12     Q. What ruling was that?</p> <p>13     A. The preclearance.</p> <p>14     Q. Would that be the administrative preclearance 15     decision from the Attorney General?</p> <p>16     A. Yes.</p> <p>17     Q. And I don't know. Did we say what the date was 18     on this yet?</p> <p>19     A. The date is September 22nd, 2011.</p> <p>20     Q. Why did you contact Mr. Sepehri about this?</p> <p>21     A. I don't know to be honest.</p> <p>22     Q. Do you remember speaking with Mr. Sepehri that 23     day?</p> <p>24     A. I remember -- I do remember speaking to him.</p> <p>25     Q. What did you talk about?</p>	<p style="text-align: center;">184</p> <p>1      A. I would say a handful of times.</p> <p>2      Q. Generally on what occasions? Was it speeches 3      he was giving? Public speeches?</p> <p>4      A. Usually for speeches.</p> <p>5      Q. Were there any other times he would go speak 6      about the bill publicly that you would prepare talking 7      points for him?</p> <p>8      A. Not that I can think of.</p> <p>9      Q. Did he do any interviews or anything of that 10     nature about the bill?</p> <p>11     A. I don't know.</p> <p>12     Q. Any campaign or fundraising events for other 13     candidates where he would speak about the bill?</p> <p>14     A. I don't know.</p> <p>15     Q. Is this something that the staff such as 16     yourself do as part of your duties at the end of every 17     legislative session like preparing talking points about 18     what happened during the session?</p> <p>19     A. Yes.</p> <p>20     Q. So had you done that for -- in prior sessions 21     as well?</p> <p>22     A. Yes.</p> <p>23     Q. Sorry. Okay. Sorry. These documents are 24     relatively new to us, so we are still figuring them out.</p> <p>25     MR. SWEETEN: Are those recently produced</p>



<p style="text-align: center;">185</p> <p>1 documents?</p> <p>2 MS. BERKOWER: They are, yes. We're happy</p> <p>3 to have them, but they're still new to us.</p> <p>4 MR. SWEETEN: Per the court -- So we have</p> <p>5 complied with the court's 6/5/12 order is what you're</p> <p>6 saying.</p> <p>7 MS. BERKOWER: I know they were produced</p> <p>8 pursuant to that order. So I would actually like to --</p> <p>9 I think I got these a little mixed up, and I would like</p> <p>10 to take a minute and review them or we can take a break.</p> <p>11 Just 5 minutes. Okay. Thank you.</p> <p>12 (Recess from 3:53 p.m. to 4:03 p.m.)</p> <p>13 (Exhibit 648 marked.)</p> <p>14 Q. (BY MS. BERKOWER) Okay. We're quite close to</p> <p>15 being done. Just a few documents that I have some</p> <p>16 questions about. This one we'll mark Exhibit 648,</p> <p>17 please. Do you know what this is?</p> <p>18 A. It looks like a request for information from us</p> <p>19 on accomplishments of the 82nd legislature.</p> <p>20 Q. What's the date on it?</p> <p>21 A. It is 6/8/2012.</p> <p>22 Q. What was the date?</p> <p>23 A. Oh, sorry. I was looking down here. Sorry.</p> <p>24 June 14th, 2011. Sorry.</p> <p>25 Q. That's okay. And what is the -- who sent this?</p>	<p style="text-align: center;">187</p> <p>1 legislation passed in the talking points?</p> <p>2 MR. SWEETEN: In answering the question,</p> <p>3 the court has asked us to provide the post-enactment</p> <p>4 communications that I think she's going over. The court</p> <p>5 has instructed that all of the documents must be</p> <p>6 produced. That does not give defendants license to</p> <p>7 inquire about other privileged matters. The question is</p> <p>8 about a post-enactment statement or documents that call</p> <p>9 for a response about legislative acts that legislators</p> <p>10 took prior to the enactment of Senate Bill 14 and prior</p> <p>11 voter ID bills. Questions regarding the motivations of</p> <p>12 the legislature with respect to those bills are</p> <p>13 privileged. So when you are answering the question,</p> <p>14 don't reveal matters of legislative privilege.</p> <p>15 A. I included that statement because it's factual.</p> <p>16 Q. Okay. In your view, was it a significant</p> <p>17 accomplishment of the legislature that session?</p> <p>18 MR. SWEETEN: Again, don't reveal matters</p> <p>19 that would be subject to the privilege. You can answer</p> <p>20 if you are not doing so.</p> <p>21 A. I'm going to choose not to answer.</p> <p>22 (Exhibit 649 marked.)</p> <p>23 Q. Okay. I have what will be marked as Exhibit</p> <p>24 649, please. Do you know what this document is?</p> <p>25 A. It looks like a request for information and --</p>
<p style="text-align: center;">186</p> <p>1 A. Ashley Kaden.</p> <p>2 Q. Were you one of the recipients?</p> <p>3 A. Yes.</p> <p>4 Q. And did she request you and other people in</p> <p>5 your office to send her talking points for the speaker</p> <p>6 about legislative activity in the 82nd legislature?</p> <p>7 A. Yes.</p> <p>8 Q. Was one of the topics she asked you to send</p> <p>9 information is voter ID and election integrity reform?</p> <p>10 A. Yes.</p> <p>11 Q. Did you respond to this email; do you remember?</p> <p>12 A. Yes.</p> <p>13 Q. Did you send her talking points concerning</p> <p>14 voter ID and election integrity reform?</p> <p>15 A. Yes.</p> <p>16 Q. What did you -- What was the content of what</p> <p>17 you sent her?</p> <p>18 A. I don't know.</p> <p>19 Q. Okay. Did you have -- Like can you even</p> <p>20 remember as a general matter the types of things you</p> <p>21 included in talking points about voter ID following the</p> <p>22 2011 legislative session?</p> <p>23 A. That the legislation passed. Other specifics,</p> <p>24 I don't -- I don't remember.</p> <p>25 Q. Why did you include the fact that the</p>	<p style="text-align: center;">188</p> <p>1 Q. Who's it from?</p> <p>2 A. It's from Ashley Kaden.</p> <p>3 Q. Did you receive it or -- sorry -- were you one</p> <p>4 of the recipients?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And what did Ashley Kaden ask you to do?</p> <p>7 A. She says, "I need to three five bullet points</p> <p>8 on the following topics. I guess you can recycle from</p> <p>9 previous info you've sent me," and she listed the</p> <p>10 topics.</p> <p>11 Q. Was one of the topics immigration and Sanctuary</p> <p>12 Cities?</p> <p>13 A. Yes.</p> <p>14 Q. Was one of them voter ID?</p> <p>15 A. Yes.</p> <p>16 Q. Of these topics which did you send her bullets</p> <p>17 points for?</p> <p>18 A. Voter ID.</p> <p>19 Q. None of the others she listed there?</p> <p>20 A. No.</p> <p>21 Q. Do you know what she meant by 10th Amendment</p> <p>22 stuff?</p> <p>23 A. I believe last session there was a select</p> <p>24 committee that handled issues related to the 10th</p> <p>25 Amendment.</p>



<p style="text-align: center;">189</p> <p>1       Q. Okay. And what did you write her about voter 2       ID?</p> <p>3       A. I wrote according to this text, "Texas passed 4       arguably the strictest voter ID law in the nation during 5       the 82nd Legislative Session. This legislation will 6       help both prevent and deter voter fraud in Texas 7       elections. The legislation requires an individual to 8       present a Federal ID in order to vote, which are: A 9       driver's license, an election ID certificate or a 10      personal ID card issued to the person by the Department 11      of Public Safety, i.e., an election certificate issued 12      to a person 70 years or older does not expire."</p> <p>13      Q. Is that the extent of your comments on voter 14      ID?</p> <p>15      A. Yes.</p> <p>16      Q. Since you say here that Texas passed arguably 17      the strictest voter ID law in the nation, does that mean 18      it was stricter than the Georgia law?</p> <p>19       MR. SWEETEN: I'm going to instruct you 20      and just as I did before that in answering this question 21      about a post-enactment statement that calls for a 22      response about legislative acts legislators took or your 23      mental processes or that require you to reveal matters 24      of legislative privilege, do not do so.</p> <p>25      A. I'm going to choose not to answer.</p>	<p style="text-align: center;">191</p> <p>1       without doing so, you may.</p> <p>2       A. I'm going to choose not to answer.</p> <p>3       (Exhibit 650 marked.)</p> <p>4       Q. Okay. Now, I think this document actually 5       takes us a step back in time to pre-enactment, so I will 6       just draw your attention, Patrick, because I know it's 7       going to be of concern to you. Can we mark this is 650, 8       please? Do you know what this is?</p> <p>9       A. Email chain.</p> <p>10      Q. Were you involved with this email chain?</p> <p>11      A. Yes.</p> <p>12      Q. What was the email chain about?</p> <p>13      A. "Chairman Bonnen intends to call a formal 14      meeting today for a select committee on voter 15      identification and voter fraud and Senate Bill 14. 16      Attached you will find the BA and substitute that we 17      laid out during the hearing. It will be in 3W.9 during 18      the reading and referral of bills and, also, from the 19      House floor."</p> <p>20      Q. And what's the date on that email?</p> <p>21      A. March 7th, 2011.</p> <p>22      Q. And what -- do you know what BA refers to?</p> <p>23      A. It's short for bill analysis.</p> <p>24      Q. Do you know if in fact a formal meeting was 25      convened that day?</p>
<p style="text-align: center;">190</p> <p>1       Q. Is it possible just for you to look at this 2       statement just sort of what we were doing before I think 3       when you were looking just at the text of the document 4       in front of you and drawing interpretations just based 5       on the document in front of you --</p> <p>6       MR. SWEETEN: Go ahead. You can finish 7       the question, Risa. I didn't mean to interrupt.</p> <p>8       Q. Okay. That the strictest -- saying something 9       is the strictest of a type means it's stricter than 10      everything else that exists.</p> <p>11       MR. SWEETEN: Don't interpret your 12      statement as listed there. If interpreting your 13      statement would reveal matters, motivations about the 14      legislation, your thoughts, mental processes about the 15      legislation or that otherwise that I've instruct you to 16      do would be subject to privilege. If revealing that 17      does so, do not answer the question.</p> <p>18      A. I'm going to choose not to answer.</p> <p>19      Q. Okay. I guess then I'll just try this one 20      other way. We'll see -- We'll see where that leads us.</p> <p>21      When you -- When you wrote strictest, what 22      other laws were you referring to?</p> <p>23       MR. SWEETEN: Again, if answering the 24      question would require you to reveal matters of 25      legislative privilege, do not do so. If you can answer</p>	<p style="text-align: center;">192</p> <p>1       A. I don't recall.</p> <p>2       Q. Turning to the next page, it looks like that's 3       the bill analysis; is that accurate? On the top it says 4       bill analysis?</p> <p>5       A. Yes.</p> <p>6       MR. SWEETEN: Counsel, you may have said 7       this prior. This document doesn't have a Bates number 8       on it. Where did we get this?</p> <p>9       MS. BERKOWER: You know, this was part of 10      the production that we -- that we received from you all, 11      and we've been having some remote printing problems. 12      I'm not sure if -- I think the Bates number's actually 13      listed in the bottom of the document under a file path, 14      at least the starting Bates numbering of this.</p> <p>15      MR. SWEETEN: Okay.</p> <p>16      MS. BERKOWER: So, I'm sorry --</p> <p>17      MR. SWEETEN: I see where it is. It's in 18      the code there.</p> <p>19      MS. BERKOWER: It looks like it's Texas 20      Document 00205342. At least that's the starting page of 21      it, and I apologize. I'm going to represent to you it's 22      because we don't have -- we're not home right now.</p> <p>23      MR. SWEETEN: I feel better. The Bates 24      number seems to be stuck in there. I think we can work 25      with it.</p>



<p style="text-align: center;">193</p> <p>1 MS. BERKOWER: I think it's the starting 2 page for each document because if you look at the first 3 page, it's 205341 and then that's the email. I think 4 the attachment, the starting page, is the next page, 5 205342. Does that make sense?</p> <p>6 MR. SWEETEN: I think you've answered what 7 I need, which is this was produced to us by you per 8 court order, and we do have a Bates stamp number on each 9 page, it appears, so I think we're good, I think.</p> <p>10 Q. (BY MS. BERKOWER) Okay. So this -- this looks 11 to be the bill analysis for SB14.</p> <p>12 A. For the committee substitute, yeah.</p> <p>13 Q. And what is that committee substitute exactly?</p> <p>14 A. In short, it is a different version of 15 legislation from the original bill filed.</p> <p>16 Q. Is it something that happens during the 17 committee process?</p> <p>18 A. Yes.</p> <p>19 Q. Is it something that the committee could 20 potentially vote on and send to the floor?</p> <p>21 A. Yes.</p> <p>22 Q. And that's what the -- if that happened, then 23 the full House would vote on that instead of the bill 24 that was originally filed in the House?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">195</p> <p>1 identity?</p> <p>2 MR. SWEETEN: I don't know that she 3 testified to that. I think you had her look at the -- 4 Objection. Misstates -- Misstates prior testimony to 5 the extent it does.</p> <p>6 Q. Okay. Do you know if current practice -- the 7 benchmark practice, the law currently in place under the 8 Texas Election Code has procedures to verify a person's 9 identity?</p> <p>10 MR. SWEETEN: Can you restate the 11 question, madam court reporter?</p> <p>12 (Requested portion was read.)</p> <p>13 MR. SWEETEN: I think you are asking for 14 matters of privilege. I'm going to instruct you not to 15 answer to the extent it would require you to reveal your 16 thought processes about the legislation.</p> <p>17 A. I'm going to choose not to answer.</p> <p>18 MS. BERKOWER: I think earlier today you 19 allowed her to testify about the current benchmark 20 practice.</p> <p>21 MR. SWEETEN: The current benchmark 22 practice.</p> <p>23 MS. BERKOWER: I shouldn't say benchmark. 24 The current procedures for voter identification at the 25 polls under Texas law as it now stands.</p>
<p style="text-align: center;">194</p> <p>1 Q. Would that then have to go back to the Senate 2 or it would go to a conference committee or what would 3 happen exactly?</p> <p>4 A. It would go back to the Senate, and if they 5 don't want to accept changes that were made in the 6 House, then the author of the Senate bill can call for a 7 conference committee.</p> <p>8 Q. Okay. So under background and purpose on this 9 document, the document says, "Current Texas law requires 10 a voter on offering to vote to present to an election 11 officer at the polling place only a valid voter 12 registration certificate. This practice attempts to 13 ensure that only registered voters are accepted for 14 voting, but it creates the potential for voter fraud 15 because no procedures currently exist for verifying the 16 person's identity." Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Is that your understanding of the purpose of 19 SB14?</p> <p>20 MR. SWEETEN: She's testified to the 21 general purpose of SB14. I guess you can answer the 22 question as phrased. Never mind.</p> <p>23 A. Yes.</p> <p>24 Q. Did you testify earlier that under current 25 practice there's no procedure to verify the person's</p>	<p style="text-align: center;">196</p> <p>1 MR. SWEETEN: And I've let her testify 2 about current law.</p> <p>3 MS. BERKOWER: Okay.</p> <p>4 MR. SWEETEN: I did do that. So I think 5 you are doing more than that here.</p> <p>6 MS. BERKOWER: And what in your view is 7 more?</p> <p>8 MR. SWEETEN: I think you are asking 9 her -- I mean, we can go back to the question, but I 10 think that you are asking for more process questions 11 that could potentially require her to reveal her 12 legislative privilege. My instruction is if it won't, 13 she can answer the question, so I'm just instructing her 14 that if it would reveal her mental process and thoughts 15 about this legislation, because you are giving her this 16 in the context of Senate Bill 14 language, then I'm 17 telling her not to answer that.</p> <p>18 MS. BERKOWER: Maybe this will help. What 19 if I asked do you know if there is a current procedure 20 to verify a person's identity under the current Texas 21 Election Code? I'm not asking for her view on it. I'm 22 asking if she knows.</p> <p>23 MR. SWEETEN: So divorced from any bill or 24 legislation, current law, I would let her answer that 25 question to the extent she knows. Is that the question?</p>



<p style="text-align: center;">197</p> <p>1 A. Can you repeat it again?      2 Q. (BY MS. BERKOWER) Okay. Do you know if      3 current law -- under current law procedures exist to      4 verify a person's identify at the polls?      5 A. I don't know.      6 Q. At any time since the passage of SB14, have you      7 come to believe it was based with any discriminatory      8 purpose?      9 A. Repeat it, please. Sorry.      10 Q. At any time since the passage of SB14, have you      11 coming to believe it was passed with any discriminatory      12 purpose?      13 A. No.      14 Q. At any time since the passage of SB14, have you      15 had come to believe that SB14 will have a retrogressive      16 effect on minority voters?      17 MR. SWEETEN: You can answer.      18 A. No.      19 Q. If you are called to trial, will you testify      20 that SB14 has no discriminatory purpose?      21 A. Yes.      22 Q. If you are called to trial, will you testify      23 that SB14 has no discriminatory effect?      24 MR. SWEETEN: You can answer if you know      25 what you would be called to testify about. But when you   </p>	<p style="text-align: center;">199</p> <p>1 share?      2 A. No.      3 MS. BERKOWER: So I'm going pass you now.      4 I'm done with my questions. I'm going to pass you now      5 to Lindsey who has a few questions for you.      6 EXAMINATION      7 BY MS. STELCEN      8 Q. Don't worry. This will be very brief. First,      9 I believe you stated earlier that Steven Schar was the      10 clerk for Representative Smith; is that correct?      11 A. He was.      12 Q. He was -- In '09, he was the clerk for the      13 elections committee?      14 A. Yes.      15 Q. And in 2011, he was the clerk for the special      16 committee on voter fraud?      17 A. Yes.      18 Q. And I think you said earlier that he was      19 responsible for putting together binders for the      20 committee?      21 A. Yes.      22 Q. Is that a practice that's done for every      23 committee, binders are put together?      24 A. Yes.      25 Q. And what typically is included in a binder for   </p>
<p style="text-align: center;">198</p> <p>1 are saying would she be -- In answering this last      2 question, if it would require you to reveal your      3 thoughts, mental processes related to the bill, then      4 doesn't answer that last question, but if it --      5 A. Can you ask it again?      6 Q. If you are called to trial, will you testify      7 that SB14 has no discriminatory effect?      8 A. Yes.      9 Q. What's the basis for that?      10 MR. SWEETEN: In answering the question,      11 if the basis of that would reveal your thoughts, mental      12 impressions about the legislation, then you do not      13 answer that question.      14 A. I'm going to choose not to answer.      15 Q. Okay. We're at the end now. Do you want to      16 change --      17 MR. SWEETEN: Okay. Go ahead. I thought      18 it was the end.      19 Q. Well, I was going to say, do you want to change      20 any of the answers you provided today?      21 A. No.      22 Q. Is there any information you recall now that      23 you did not recall earlier today?      24 A. None that comes to mind.      25 Q. Is there anything additional that you want to   </p>	<p style="text-align: center;">200</p> <p>1 the committee?      2 A. The legislation, the bill analysis, the fiscal      3 note and any written testimony or written exhibits that      4 witnesses have distributed to the committee already.      5 Q. Okay. And that's all -- that's all witness      6 statements that are produced prior to the committee. So      7 is it updated throughout, I guess, is my question? Is      8 the binder updated throughout?      9 A. Yes. Normally witnesses will come in and they      10 have copies that's distributed to members.      11 Q. That's my only question on that. How long has      12 Speaker Straus been a speaker?      13 A. Since January 2009.      14 Q. And how often does he need to be reelected as      15 speaker?      16 A. To the speakership, every session.      17 Q. When's the last time that he had to run for the      18 speakership?      19 A. Last session.      20 Q. What month is that typically that he runs?      21 A. It's January.      22 Q. And does Speaker Straus publicly campaign for      23 the speakership?      24 A. When you say publicly --      25 Q. Does he make public statements about why he   </p>



<p style="text-align: center;">201</p> <p>1 should be elected to the speakership?      2 A. Yes.      3 Q. Do you recall if Speaker Straus has been      4 opposed for the speakership in any election?      5 A. Yes.      6 Q. Was he opposed in this past election?      7 A. Yes.      8 Q. By who?      9 A. Is Ken Paxton.      10 Q. And was he opposed in the previous session in      11 2010?      12 A. I guess that would have been --      13 Q. I'm sorry. 2011.      14 A. 2011 was Ken Paxton.      15 Q. In 2010 was he opposed?      16 A. No. We weren't in session.      17 Q. Okay. Are you familiar with the term robocall?      18 A. Yes.      19 Q. What is a robocall?      20 A. My understanding is it's a recording that I      21 guess is sent to citizens' home phone lines.      22 Q. Are you familiar with the use of robocalls in      23 campaigns?      24 A. Yes.      25 Q. Do you recall whether Speaker Straus's</p>	<p style="text-align: center;">203</p> <p>1 that he blocked voter ID legislation in order to get the      2 speakership position?      3 MR. SWEETEN: I think it's a public      4 statement time.      5 MS. STELCEN: Public statement, correct.      6 MR. SWEETEN: You can answer.      7 A. I don't recall a specific statement like that.      8 Q. Okay. Are you aware of any statements that      9 have been made about that in general, whether or not you      10 can recall a specific statement, but have you heard that      11 in the public sphere people making those claims?      12 MR. SWEETEN: Objection to the form, but,      13 also, if you can confine your answer to non-privileged      14 matters that are matters of public record, you can      15 answer the question.      16 MS. STELCEN: I can rephrase it too.      17 A. Okay.      18 Q. Are you generally aware of any public      19 statements that have been made that Speaker Straus      20 blocked voter ID legislation in order to win the      21 speakership position?      22 A. No.      23 Q. You just stated that you recalled certain      24 statements that Speaker Straus was not conservative      25 enough, and those statements were made by Paxton; is</p>
<p style="text-align: center;">202</p> <p>1 opponents in the speakership raise have used robocalls?      2 A. I don't have personal knowledge.      3 Q. And let me just rephrase that. When I say      4 opponent, I also intend to include opponents or      5 supporters of the opponent. In this case, I guess,      6 Paxton?      7 A. I don't know.      8 Q. You are not -- You don't know?      9 A. (Shakes head.)      10 Q. Okay. So you are unaware of any robocalls that      11 were sent out or used by --      12 A. By Paxton? I don't remember.      13 Q. Do you recall any statements during previous      14 speakership campaigns about Speaker Straus not being      15 conservative enough?      16 MR. SWEETEN: You can refer to matters of      17 the public record.      18 Q. Public statements made by opponents to Speaker      19 Straus during the campaign about him not being      20 conservative enough.      21 A. Yes.      22 Q. And who made those statements; do you recall?      23 A. Ken Paxton.      24 Q. Okay. Do you recall any statements -- public      25 statements that were made by opponents to Speaker Straus</p>	<p style="text-align: center;">204</p> <p>1 that correct?      2 A. Yes.      3 Q. Do you recall whether or not Paxton gave any      4 additional rationale for why he believed that Speaker      5 Straus was not conservative enough in those public      6 statements?      7 A. I don't recall any specifics.      8 Q. I think that's all. Let me just check one      9 thing.      10 Do you remember during the last      11 speakership race whether there were any public      12 statements made that Speaker Straus could not promote      13 conservative Christian values?      14 A. Yes.      15 Q. Do you recall who made those statements?      16 A. I don't recall specifically, but I do recall      17 those statements being made.      18 Q. And do you remember anything else generally      19 about those statements, any other details or examples      20 that people may have provided in those public statements      21 about why he could not promote conservative Christian      22 values?      23 A. Yes.      24 Q. And could you give me what those examples were?      25 A. That he's Jewish.</p>



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<p style="text-align: center;">205</p> <p>1 MS. STELCEN: I think that's all I have.      2 EXAMINATION      3 BY MR. SWEETEN      4 Q. I've got two questions. What was the general      5 purpose of Senate Bill 14?      6 A. To deter voter fraud.      7 Q. Was there any other purpose?      8 A. No.</p> <p>9 MR. SWEETEN: No further questions.      10 (Deposition concluded at 4:35 p.m.)</p>	<p style="text-align: center;">207</p> <p>1 IN THE UNITED STATES DISTRICT COURT      2 FOR THE DISTRICT OF COLUMBIA      3 STATE OF TEXAS, )      4 Plaintiff, )      5 VS. ) CASE NO. 1:12-CV-00128      6 ERIC H. HOLDER, JR., in his ) Three-Judge Court      official capacity as Attorney      General of the United States,)      7 Defendant. )      8 ERIC KENNIE, et al., )      9 Defendant-Intervenors, )      10 TEXAS STATE CONFERENCE OF )      11 NAACP BRANCHES, et al., )      12 Defendant-Intervenors, )      13 TEXAS LEAGUE OF YOUNG VOTERS )      EDUCATION FUND, et al., )      14 Defendant-Intervenors, )      15 TEXAS LEGISLATIVE BLACK )      CAUCUS, et al., )      16 Defendant-Intervenors, )      17 VICTORIA RODRIGUEZ, et al., )      18 Defendant-Intervenors, )      19 REPORTER'S CERTIFICATE      20 ORAL DEPOSITION OF MEREDYTH FOWLER      21 JUNE 8, 2012      22 I, JEAN THOMAS FRAUNHOFER, the undersigned Certified      Shorthand Reporter in and for the State of Texas,      23 certify that the facts stated in the foregoing pages are      24      25</p>																																																																																								
<p style="text-align: center;">206</p> <p>1 CHANGES AND SIGNATURE      2 RE: STATE OF TEXAS VS. TEXAS STATE CONFERENCE OF NAACP      BRANCHES, et al</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 10%;">PAGE</th> <th style="text-align: left; width: 10%;">LINE</th> <th style="text-align: left; width: 10%;">CHANGE</th> <th style="text-align: left; width: 10%;">REASON</th> </tr> </thead> <tbody> <tr><td>5</td><td></td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td><td>I, MEREDYTH FOWLER, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.</td></tr> <tr><td>13</td><td></td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td>MEREDYTH FOWLER, Witness</td></tr> <tr><td>16</td><td></td><td></td><td>THE STATE OF _____) COUNTY OF _____)</td></tr> <tr><td>17</td><td></td><td></td><td>Before me, _____, on this day personally appeared MEREDYTH FOWLER, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.</td></tr> <tr><td>18</td><td></td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td><td>Given under my hand and seal of office this _____ day of _____, _____.</td></tr> <tr><td>23</td><td></td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td><td>Notary Public in and for the State of _____.</td></tr> <tr><td>25</td><td></td><td></td><td></td></tr> </tbody> </table>	PAGE	LINE	CHANGE	REASON	5				6				7				8				9				10				11				12			I, MEREDYTH FOWLER, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.	13				14				15			MEREDYTH FOWLER, Witness	16			THE STATE OF _____) COUNTY OF _____)	17			Before me, _____, on this day personally appeared MEREDYTH FOWLER, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.	18				19				20				21				22			Given under my hand and seal of office this _____ day of _____, _____.	23				24			Notary Public in and for the State of _____.	25				<p style="text-align: center;">208</p> <p>1 true and correct.      2 I further certify that I am neither attorney or      3 counsel for, related to, nor employed by any parties to      4 the action in which this testimony is taken and,      5 further, that I am not a relative or employee of any      6 counsel employed by the parties hereto or financially      7 interested in the action.      8 SUBSCRIBED AND SWORN TO under my hand and seal of      9 office on this the 12th day of June, 2012.</p> <p style="text-align: right; margin-top: -20px;">       JEAN THOMAS FRAUNHOFER      Texas CSR 7990      Expiration Date: 12/31/12      ESQUIRE DEPOSITION SERVICES      Firm Registration No. 77      9901 IH-10 West, Suite 800      San Antonio, Texas 78230      Tel: (210) 331-2280     </p>
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15			MEREDYTH FOWLER, Witness																																																																																						
16			THE STATE OF _____) COUNTY OF _____)																																																																																						
17			Before me, _____, on this day personally appeared MEREDYTH FOWLER, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.																																																																																						
18																																																																																									
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21																																																																																									
22			Given under my hand and seal of office this _____ day of _____, _____.																																																																																						
23																																																																																									
24			Notary Public in and for the State of _____.																																																																																						
25																																																																																									



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